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Commerical Availability of Apparel Inputs (2004):

Effect of Providing Preferential Treatment to Apparel From Sub-Saharan African, Caribbean Basin, and Andean Countries

Compilation of Reports Requested in 2004

Investigation No. 332-458

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OVERVIEW

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the U.S. International Trade Commission (Commission) instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice during 2004 in connection with petitions filed by interested parties under the "commercial availability" (previously informally known as "short supply") provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA). For further information on the investigation, see appendix A for a copy of the USTR request letter and appendix B for a copy of the Commission's notice of institution, which was published in the *Federal Register* (69 F.R. 6003) on February 9, 2004.

During 2004, the Commission was requested to provide advice under "commercial availability" provisions for 24 petitions.[1] A copy of the Commission's advice in connection with each of these petitions is included in this report, with any confidential business information deleted.

A list of petitions for which the Commission has provided advice under "commercial availability" provisions for 2004 is shown in table 1, which appears on the following page.[2] The table provides a brief description of the articles named in each petition, the date on which each petition was received by the Committee for the Implementation of Textile Agreements (CITA), whether the advice was requested under the AGOA, CBTPA and/or the ATPDEA, and whether the specified apparel articles were subsequently designated by CITA as eligible for duty-free and quota-free treatment under the "commercial availability" provisions of the AGOA, the CBTPA, and the ATPDEA.[3]

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[1]The Commission was requested to provide advice for an additional petition which was later withdrawn.

[2]A list of petitions for which the Commission provided advice since the beginning of the program in 2001 through 2003 is shown in a table in appendix C. The investigations conducted by the U.S. International Trade Commission (USITC) in 2001, 2002, and 2003 are *Apparel Inputs in "Short Supply" (2001): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African and Caribbean Basin Countries* (investigation No. 332-428), USITC publication 3492, Feb. 2002; *Apparel Inputs in "Short Supply" (2002): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African and Caribbean Basin Countries* (investigation No. 332-436), USITC publication 3581, Feb. 2003; and *Commercial Availability of Apparel Inputs (2003): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries* (investigation No. 332-450), USITC publication 3677, Mar. 2004.

[3]In Executive Order No. 13191, the President delegated to CITA, chaired by the U.S. Department of Commerce, the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and the USTR to submit the required report to the Congress and delegated to USTR the authority to obtain advice from the USITC.

Table 1
Petitions filed by interested parties in 2004 (Investigation No. 332-458)

No.	Brief product description	CITA received	AGOA	CBTPA	ATPDEA	CITA decision
001	Apparel of combed compact yarns	01/14/04	X	X	X	Approved
002	Apparel containing certain fusible materials in waistbands	01/20/04	X	X	X	Denied
003	Apparel containing certain lycra crochet material in waistbands	01/20/04	X		X	Denied
004	Apparel of flannel fabrics	02/13/04		X		Denied
005	Apparel of flannel fabrics	03/04/04		X		Denied[1]
006	Apparel of cotton corduroy fabrics	03/05/04	X	X	X	Denied
007	Apparel, such as trousers and skirts, made with certain fusible interlinings used in waistbands	04/16/04		X		Not revoked[2]
008	Apparel of certain two-stretch twill fabric	06/18/04		X		Denied
009	Apparel of certain cotton flannel fabrics	07/14/04		X		Approved[3]
010	Apparel of cotton flannel fabrics of yarns of different colors	07/31/04		X		Approved[3]
011	Apparel of certain polyester lining fabric	08/03/04		X		Denied
012	Apparel of certain cotton twill fabric	08/03/04		X		Denied
013	Apparel of certain fancy polyester-rayon blend fabric	08/03/04		X		Withdrawn
014	Apparel of certain fancy polyester fabric	08/03/04		X		Denied
015	Apparel of certain cotton napped sheeting fabric	08/12/04		X		Approved
016	Women's and children's apparel of polyester monofilament yarn	08/23/04			X	Denied
017	Apparel of fancy polyester-rayon suiting fabrics	08/24/04		X		Denied
018	Apparel of circular single knit jersey fabric	08/31/04		X		Denied
019	Apparel of twill rayon-nylon-spandex warp stretch fabric	08/31/04		X		Denied
020	Apparel of circular single knit printed jersey fabric	09/20/04		X		Denied
021	Apparel of woven double-napped cotton flannel fabric	09/23/04		X		Approved
022	Cotton sweaters containing certain open-end spun yarns	10/12/04		X		Denied
023	Women's and girls' nightwear of certain circular knit jersey fabrics	10/19/04		X		Denied
024	Boys' apparel of certain polyester fabrics	12/12/04		X		([4])
025	Apparel of ring-spun micro-modal fiber yarn	12/27/04	X	X	X	([4])

[1] On May 12, 2004, CITA received a new petition from the same petitioners on the subject fabrics covered by the petition filed in March 2004. As CITA had already sought advice from the Commission in response to the earlier request, CITA did not do so again. On Aug. 8, 2004, CITA announced that "new information was subsequently obtained supporting the petitioners' claim that such fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner." As such, CITA designated apparel articles, excluding gloves, made in eligible CBTPA countries from the subject fabrics as eligible for duty-free treatment under the CBTPA commercial availability provisions (see CITA notice in *Federal Register* of Aug. 13, 2004 (69 F.R. 50171)).

[2] On Apr. 16, 2004, CITA received a petition filed on behalf of Narroflex alleging that the fabrics can be supplied by the domestic industry in commercial quantities in a timely manner, and requesting that CITA revoke its previous designation regarding the fabrics. On Aug. 31, 2004, CITA announced that it had determined that revoking the designation of the fabrics under the commercial availability provision of the CBTPA would have an adverse impact on a significant component of the U.S. textile industry. Thus, CITA decided not to revoke the previous designation regarding the fabrics, and apparel from such fabric will continue to be eligible for duty-free treatment under the CBTPA commercial availability provision (see CITA notice in *Federal Register* of Sept. 7, 2004 (69 F.R. 54133)).

[3] The fabrics were specified in 12 petitions filed by Sandler, Travis & Rosenberg, P.A., on behalf of Picacho, S.A. The petitioner subsequently withdrew three of the petitions because of errors in fabric description (see CITA notice in 69 F.R. 46137) and re-filed them with CITA on July 30, 2004 (CITA notice 69 F.R. 47915); the fabrics named in these petitions were the subject of Commission investigation No. 332-458-010. In addition, the petitioner withdrew one of the remaining nine petitions during the 60-day congressional layover period because the fabric named in the petition was no longer available from its source (CITA notice in 69 F.R. 69586).

[4] CITA and USTR have submitted a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth the action proposed, the reasons for such action, and advice obtained, as required by the AGOA, CBTPA, and ATPDEA.

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Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-001

Products	**Apparel of combed compact yarns**
Requesting Parties	**Warren Corp., Stafford Springs, CT**
Date of Commission Report: USTR **Public**	**February 24, 2004** **February 2004**
Commission Contact	**Cynthia Trainor (202-205-3354; trainor@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON FEBRUARY 24, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis shows that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible sub-Saharan African, Caribbean Basin, and Andean countries from combed compact yarns of wool or fine animal hair, or from fabrics made in the United States of such yarns, would likely have no adverse effect on U.S. yarn spinners because there are no known current U.S. producers of the yarns. A U.S. yarn producer reportedly might begin production of the yarns this year; if so, the extent to which the proposed preferential treatment could adversely affect such production is unknown. The proposed preferential treatment could have a negligible adverse effect on U.S. producers of the apparel and their workers, but would likely benefit U.S. firms producing fabrics of the subject yarns and firms making the apparel in eligible countries and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

The Commission's advice in this report concerns a petition received by CITA on January 14, 2004, alleging that certain yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that the President proclaim preferential treatment for apparel made in eligible AGOA, CBTPA, and Andean countries from such yarn, or from U.S.-formed fabrics containing such yarn, regardless of the source of the yarn. The President is required to submit a report to the House Committee

[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of February 9, 2004 (69 F.R. 6003) and the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

on Ways and Means and the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[2]

Discussion of the product

The yarns named in the petition are combed compact yarns of wool or fine animal hair (e.g., camel hair) classified in the Harmonized Tariff Schedule of the United States (HTS) under subheadings 5107.10 and 5107.20 (of wool) and 5108.20 (of fine animal hair). The HTS divides the combed wool yarns into those containing 85 percent or more wool by weight (5107.10) and those containing less than 85 percent wool (5107.20). The yarns can be singles or plied yarns and of any micron count. Garments made from the yarns are classified in HTS chapter 61 (apparel, knitted or crocheted) and chapter 62 (apparel, not knitted or crocheted) under provisions for apparel of "wool or fine animal hair." Among the apparel articles made from the yarns are men's worsted wool tailored clothing, for which the 2004 general duty rates are approximately 17.5 percent ad valorem.

According to the petitioner, a U.S. producer of yarns and fabrics primarily for men's tailored clothing, ***. The petition states that the yarn is an emerging, technologically advanced product created by a reduction of the air space between fibers during the spinning process.[3] The appearance, strength, and durability of the yarn make it a more desirable and effective yarn for the production of fine apparel fabric. In comparison to traditional combed yarns, the compact yarns are made of fibers aligned more uniformly and closer together; have a less hairy surface, making the fabric more resistant to pilling; and show increased elongation and strength, which improves weaving performance and enhances the wear and crease-resistant properties of the garment.

The American Yarn Spinners Association, Inc., (AYSA), Gastonia, NC, a trade association representing U.S. yarn producers, stated that "traditional ring spinning makes 'hairy' yarn, meaning small strands of fiber protrude from the finished yarn. Compact spinning uses air suction or other means to pull all the strands of fiber into the yarn during the actual twisting process, thereby reducing undesirable yarn hairiness and increasing yarn strength. Compact yarns are typically fine count yarns made on the short staple and worsted spinning systems. This is a relatively new technology already in use among manufacturers of certain ring spun combed cotton yarns, and the technology will soon be installed for worsted [wool] spinning."[4]

Discussion of affected U.S. industries, workers, and consumers

There are no known U.S. producers of the subject compact yarns for commercial sale.[5] The National Textile Association (NTA), Boston, MA, a trade association representing U.S. producers of wool yarns and fabrics, said it was not aware of any domestic production of the yarns.[6] However, AYSA said compact

[2] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[3] Information on the yarn is from the petition submitted by Warren Corp. to CITA, dated Jan. 12, 2004.

[4] Michael S. Hubbard, Executive Vice President, AYSA, written submission to the Commission, Feb. 18, 2004.

[5] Except as noted, information in the paragraph is based on information from several sources, including a written statement from Jeffrey H. Peck, Executive Vice President - General Manager, Apparel Fabrics, Burlington Industries LLC, Greensboro, NC, Feb. 17, 2004, and telephone interviews with Mark Kent, President & CEO, The Kent Manufacturing Co., Pickens, SC, and Scott A. Grey, Sales Manager, Jagger Brothers Inc., Springvale, ME, Feb. 18, 2004.

[6] David Trumbull, Director, Member Services, NTA, telephone interview by Commission staff, Feb. 17, 2004.

yarns "will soon be available in commercial quantities in a timely manner from a major U.S. wool spinner."[7] It stated that ***. ***.[8] ***.[9] ***.[10]

U.S. industry sources said compact yarns are "virtually indistinguishable" from traditional non-compact yarns, making it very difficult to determine whether a wool garment is made from compact or non-compact yarns ***.[11] Industry sources stated that the only difference between the two yarns is that compact yarns "undergo an additional processing step that decreases the amount of air space within the yarn itself" and that existing equipment could be retrofitted at a relatively small cost to perform this step.[12] Industry sources indicated that the two yarns have "identical end use applications" in apparel and that domestic demand for the compact yarns is small because of their higher cost.

Views of interested parties

The Commission received written submissions in opposition to the petition from Burlington Industries and AYSA. Burlington Industries said it has more than 1,000 workers engaged in production of wool yarns and fabrics in the United States, primarily in Virginia and North Carolina. The firm said compact yarns are virtually indistinguishable from non-compact yarns, as compact yarns are made from readily available wool fibers with identical micron size and spun into the same size yarns as non-compact yarns. Burlington cites the difference between compact and non-compact yarns as an additional processing step that reduces the amount of air space within the yarn itself. The firm stated that compact yarns will compete directly with non-compact yarns for the same apparel customers located in beneficiary countries and that approval of the petition will allow U.S. manufacturers to import yarns for use under various trade preference programs that could easily be serviced by yarns available in the United States. The firm indicated that it disagrees with claims that the subject compact yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner.[13]

AYSA said it opposes the petition because the compact yarns will soon be available in commercial quantities in a timely manner from a major U.S. wool spinner ***.[14] AYSA stated that approval of the petition, with focus on a specific technology, would inhibit product development and modernization of U.S. spinning mills during a period that demands flexibility and specialization. AYSA also said that approval of the petition could prove a disincentive for U.S. yarn spinners to install the new technology, which in turn could limit the types of yarns available as U.S. spinners focus on specialized products.

Probable economic effect advice[15]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible sub-Saharan African, Caribbean Basin, and Andean countries from the subject yarns or from U.S.-formed fabrics of the yarns, regardless of the source of the yarns, would likely have no adverse effect on U.S. yarn spinners because there are no known current U.S. producers of such yarns.

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[7] Michael S. Hubbard, Executive Vice President, AYSA, written submission to the Commission, Feb. 18, 2004.

[8] ***.

[9] ***, telephone interview by Commission staff, Feb. 20, 2004.

[10] ***.

[11] ***.

[12] ***.

[13] Jeffrey H. Peck, Executive Vice President - General Manager, Apparel Fabrics, Burlington Industries LLC, Greensboro, NC, written submission to the Commission, Feb. 17, 2004. Burlington said it recently streamlined its wool fabric operations to reduce excess capacity, yet remains positioned to be a major player in the U.S. worsted wool fabric market. In a press release of November 11, 2003, WL Ross & Co., LLC, announced that it had completed the purchase of Burlington.

[14] Michael S. Hubbard, Executive Vice President, AYSA, written submission to the Commission, Feb. 18, 2004.

[15] The Commission's advice is based on information currently available to the Commission.

A U.S. yarn producer reportedly might begin production of the yarns this year; if so, the extent to which the proposed preferential treatment could adversely affect such production is unknown.[16]

The proposed preferential treatment would likely benefit U.S. producers of fabrics of the subject yarns and their workers, to the extent that demand increases for U.S. fabrics used in the production of apparel in eligible beneficiary countries. It would also benefit U.S. firms that make the apparel in eligible beneficiary countries, and their U.S.-based workers. The expected increase in imports of such apparel from the eligible countries would likely displace imports of similar apparel from other countries, but could have a negligible adverse effect on any U.S. producers of such apparel.

U.S. consumers of apparel made from the subject yarn would likely benefit from the proposed preferential treatment because importers and retailers are likely to pass through some of the duty savings to consumers in today's highly competitive retail market for men's tailored clothing.

16 ***.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-002

Products	**Apparel made with certain fusible interlinings**
Requesting Parties	**Levi Strauss & Co., San Francisco, CA**
Date of Commission Report: USTR Public	**March 2, 2004 March 2004**
Commission Contact	**Cynthia Trainor (202-205-3354; cynthia.trainor@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON MARCH 2, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis indicates that the probable economic effect of granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible sub-Saharan African, Caribbean Basin, and Andean beneficiary countries with waistbands of the subject fabrics,[1] regardless of the source of the fabrics, will depend on the extent to which the interlining fabrics made in the United States are substitutable for the interlining fabrics named in the petition. At least one firm asserts that it makes or can make the subject interlining fabrics. If the domestic interlining fabrics are substitutable for the interlining fabrics named in the petition, the proposed preferential treatment could adversely affect U.S. producers of the fabrics and their workers. The proposed preferential treatment could have a negligible adverse effect on U.S. producers of elastomeric fibers and U.S. producers of the apparel and their workers, but could benefit apparel firms that make the garments in eligible countries and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[2]

The Commission's advice in this report concerns a petition received by CITA on January 20, 2004, alleging that certain fabrics used in waistbands cannot be supplied by the domestic industry in commercial

[1] ***.

[2] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of February 9, 2004 (69 F.R. 6003) and the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

quantities in a timely manner and requesting that the President proclaim preferential treatment for apparel made in eligible AGOA, CBTPA, and Andean countries with waistbands of such fabrics, regardless of the source of the fabrics. The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[3]

Discussion of the product

The three fabrics named in the petition are patented fusible interlining fabrics used in the construction of waistbands for apparel articles. According to the petition, the fabrics are classified in subheading 5903.90.25 of the Harmonized Tariff Schedule of the United States (HTS), which provides for fabrics of manmade fibers, impregnated, coated, covered, or laminated with plastics other than with poly(vinyl chloride) and polyurethane, not over 70 percent by weight of rubber or plastics. The fabrics comprise (1) a knitted outer-fusible material, (2) a knitted inner- and outer-fusible material with an adhesive (thermoplastic resin) coating applied after a finishing process to remove all shrinkage from the material, and (3) a knitted fusible material used to shape contour waistbands and applied on top of the main fusible layer only as a reinforcement.[4] Garments containing waistbands of such fabrics, such as pants, shorts, and skirts, are classified primarily in HTS chapter 62 (apparel, not knitted or crocheted). The 2004 general rates of duty on such apparel are 8.2 percent ad valorem for cotton skirts and 16.6 percent ad valorem for men's or women's cotton pants and shorts.

Discussion of affected U.S. industries, workers, and consumers

The segments of the U.S. textile and apparel sector affected by the proposed preferential treatment are producers of elastomeric fibers, fusible interlining fabrics, and apparel.

U.S. producers of elastomeric fibers used in the production of elastic fabrics for apparel applications include Bayer Polymers LLC, Charleston, SC; Dow Fiber Solutions, Midland, MI; Invista Inc., Wilmington, DE; RadiciSpandex Corp., Fall River, MA; and Unifi Inc., Greensboro, NC. Bayer Polymers produces Dorlastan® elastic fibers for textile applications at its facility in Goose Creek, SC; ***.[5] Dow Fiber Solutions (a division of The Dow Chemical Co.) produces Dow XLA elastic fiber (lastol) ***.[6] Invista (formerly DuPont Textiles & Interiors) produces Lycra® elastic fibers.[7] Invista stated that ***.[8]

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[3] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[4] The petition filed by Levi Strauss & Co. covers a series of interlining fabrics for use in apparel waistbands. Three of the fabrics named in the petition are under consideration in this review; the other fabrics are under review by the Commission in investigation No. 332-458-003. For further information on the interlining fabrics named in the petition, see the two separate notices of CITA, "Request for Public Comments on Commercial Availability Request," *Federal Register*, Jan. 30, 2004 (69 F.R. 4494 and 4495), pp. 4494 and 4495. The interlining fabrics are similar to those named in a petition filed by Levi Strauss in December 2002, for which the Commission provided advice in investigation No. 332-436-006 in January 2003.

[5] Bayer Polymers LLC, press release, "Bayer Fibers Business to Become Separate Entity; Launches New Name," Jan. 1, 2004, found on its website at *http://www.dorlastan.com*, retrieved Feb. 24, 2004, and ***, telephone interview by Commission staff, Feb. 23, 2004.

[6] ***, telephone interview by Commission staff, Feb. 25, 2004.

[7] A sale of Invista to Koch Industries, Inc., Witchita, KS, is pending. Invista, currently a business unit of DuPont, states that it is the world's largest integrated fiber and intermediates company. See Invista press release of Feb. 5, 2004, "Additional Invista Leaders Announced," found on the firm's website at *http://www.invista.com/news*, retrieved Feb. 24, 2004.

[8] ***, telephone interview by Commission staff, Feb. 23, 2004.

RadiciSpandex produces spandex fibers for narrow fabrics that, in part, are used in apparel waistbands.[9] The firm stated that ***.[10] Unifi Inc. produces polyester elastic yarns.[11] ***.[12]

Concerning fabrics, the Commission received a written submission from Narroflex Inc., which produces elastomeric narrow fabrics at its plant in Stuart, VA.[13] According to Narroflex, a wholly owned subsidiary of Canadian-based Wentworth Textiles Inc., it employs 257 persons at the Stuart plant and more than 20 persons exclusively in elastomeric fabric design. The firm said it supplies elastomeric narrow fabrics to numerous customers involved in the AGOA, CBTPA, and ATPDEA preference programs. Narroflex stated that the Stuart plant has ***. Narroflex stated that although it has had no direct contact with Levi Strauss, it was contacted by Tag-It Inc., a Delaware company that Narroflex believes is a contractor for Levi Strauss, with certain fabric specifications. Narroflex said it produced several accepted knitted narrow fabric samples for Tag-It ***.

Other U.S. producers of fusible interlining fabrics contacted by Commission staff include QST Industries, Chicago, IL; Precision Custom Coatings, LLC (PCC), Totowa, NJ; and Milliken & Co., Spartanburg, SC. QST Industries stated that ***.[14] ***.[15] ***.[16]

With regard to apparel, Commission staff contacted Haggar Clothing Co., Dallas, TX, and Tropical Sportswear International Corp. (TSI), Tampa, FL, which, like Levi Strauss, market dress and casual pants. Haggar produces "comfort fit waist pants . . . featuring a hidden, flexible waistband."[17] ***.[18] According to TSI, which sells pants under such brand-names as Savane® and Farah®, ***.[19]

Views of interested parties

The Commission received a written submission in opposition to the petition from Narroflex Inc., which stated that based on its understanding of the interlining fabrics named in the petition, it can produce all of the specified fabrics in a timely manner and in sufficient quantities to satisfy the anticipated demands of Levi Strauss (see earlier discussion for information on Narroflex).

The Commission received a written submission from Dow Fiber Solutions, which expressed concern that the limited nature of the petition could further reduce the ability of textile manufacturers to compete in development of new and innovative garments.[20] Dow said it would support the petition provided that the subject fabrics are defined as those containing elastomeric yarns rather than Lycra® yarns, a brand-name yarn of Invista. Dow stated that use of an elastomerics designation, rather than a single market specific brand, will ensure maximum availability and opportunity for U.S. textile manufacturers.

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[9] RadiciSpandex Corp., press release, "Thin is in: New Polyether Elastane from RadiciSpandex Provides the Skinny on Narrow Fabrics," found on its website at *http://www.radicispandex.com*, retrieved Feb. 24, 2004.

[10] ***, telephone interview by Commission staff, Feb. 23, 2004.

[11] Information on Unifi's product line is from the firm's website at *www.unifi-inc.com*, retrieved Feb. 25, 2004.

[12] ***, telephone interview by Commission staff, Feb. 26, 2004.

[13] C.J. Erickson, Hodgson Russ LLP, New York, NY, counsel to Narroflex Inc., written submission to the Commission, Feb. 23, 2004.

[14] ***, telephone interview by Commission staff, Feb. 23, 2004.

[15] ***, telephone interviews by Commission staff, Feb. 23 and 26, 2004.

[16] ***, telephone interview by Commission staff, Feb. 23, 2004.

[17] See website of Haggar Clothing Co. at *http://haggar.com* for information on the firm's products.

[18] ***, telephone interview by Commission staff, Feb. 23, 2004.

[19] ***, telephone interview by Commission staff, Mar. 1, 2004.

[20] Jean K. Aukerman, Senior Brand Manager, Dow Fiber Solutions, a division of The Dow Chemical Co., written submission to the Commission, Feb. 25, 2004.

The Commission received a written submission in support of the petition from the American Apparel & Footwear Association (AAFA), the national trade association for the apparel and footwear industries.[21] AAFA stated that the proposed preferential treatment will not cause any adverse impact on U.S. apparel companies, most of whom are also engaged in the production of similar clothing overseas for import back into the United States. It stated that the proposed preferences would beneficially impact the U.S. based suppliers of textile materials to Levi Strauss. According to AAFA, because Levi Strauss would be able to produce in the Central American region, the firm will be more likely to use other U.S. fabrics and yarns in the production of the apparel containing waistbands of the subject fabrics. AAFA further stated that if Levi Strauss is instead forced to produce the garments elsewhere, the value of the U.S. content and the export opportunities will diminish.

Probable economic effect advice[22]

The Commission's analysis indicates that the probable economic effect of granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible AGOA, CBTPA, and Andean beneficiary countries with waistbands of the subject fabrics, regardless of the source of the fabrics, will depend on the extent to which the interlining fabrics made in the United States are substitutable for the interlining fabrics named in the petition. At least one firm (Narroflex) asserts that it makes or can make the subject interlining fabrics. If the domestic interlining fabrics are substitutable for the interlining fabrics named in the petition, the proposed preferential treatment could adversely affect U.S. producers of the fabrics and their workers. However, time constraints have limited our ability to determine substitutability.

The proposed preferential treatment could have a negligible adverse effect on U.S. producers of elastomeric fibers and U.S. producers of the apparel, and their workers. The proposed preferential treatment could benefit apparel firms that make the garments in eligible countries and their U.S.-based workers. U.S. consumers of the apparel would also benefit from the proposed preferential treatment to the extent that importers pass on some of the duty savings to retail consumers in today's highly competitive market for casual pants, shorts, and skirts.

[21] Stephen Lamar, Senior Vice President, AAFA, written submission to the Commission, Feb. 10, 2004.

[22] The Commission's advice is based on information currently available to the Commission.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-003

Products	**Apparel made with certain fusible interlinings**
Requesting Parties	**Levi Strauss & Co., San Francisco, CA**
Date of Commission Report: USTR **Public**	**March 2, 2004** **March 2004**
Commission Contact	**Cynthia Trainor (202-205-3354; cynthia.trainor@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON MARCH 2, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis indicates that the probable economic effect of granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible sub-Saharan African and Andean beneficiary countries with waistbands of the subject fabrics,[1] regardless of the source of the fabrics, will depend on the extent to which the interlining fabrics made in the United States are substitutable for the interlining fabrics named in the petition.[2] At least one firm asserts that it makes or can make the subject interlining fabrics. If the domestic interlining fabrics are substitutable for the interlining fabrics named in the petition, the proposed preferential treatment could adversely affect U.S. producers of the fabrics and their workers. The proposed preferential treatment could have a negligible adverse effect on U.S. producers of elastomeric fibers and U.S. producers of the apparel and their workers, but could benefit apparel firms that make the garments in eligible countries and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[3]

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[1] ***.

[2] The two interlining fabrics under review are identical to those named in the petition filed by Levi Strauss in December 2002 under the "commercial availability" provision of the CBTPA. In April 2003, CITA approved that petition (see *Federal Register* of April 22, 2003 (68 F.R. 19788). In the current petition, Levi Strauss requests the same treatment under the AGOA and ATPDEA provisions.

[3] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of February 9, 2004 (69 F.R. 6003) and the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

The Commission's advice in this report concerns a petition received by CITA on January 20, 2004, alleging that certain fabrics used in waistbands cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting that the President proclaim preferential treatment for apparel made in eligible AGOA and Andean countries with waistbands of such fabrics, regardless of the source of the fabrics. The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[4]

Discussion of the product

According to the petition, the two interlining fabrics named in the petition are for use in the waistband of apparel articles and are classified in subheading 5903.90.25 of the Harmonized Tariff Schedule of the United States (HTS), which provides for textile fabrics of manmade fibers, impregnated, coated, covered, or laminated with plastics other than with poly(vinyl chloride) and polyurethane, not over 70 percent by weight of rubber or plastics. The fabrics are (1) an ultra-fine Lycra® crochet outer-fusible material with a fold line that is knitted into the fabrics and (2) a fine Lycra® crochet inner-fusible material with an adhesive coating that is applied after going through a finishing process to remove all shrinkage from the material.[5] Garments containing waistbands of such fabrics, such as pants, shorts, and skirts, are classified primarily in HTS chapter 62 (apparel, not knitted or crocheted). The 2004 general rates of duty on such apparel range from 8.2 percent ad valorem for cotton skirts and divided skirts (skorts) to 16.6 percent ad valorem for men's and women's cotton pants and shorts.

Discussion of affected U.S. industries, workers, and consumers

The segments of the U.S. textile and apparel sector affected by the proposed preferential treatment are producers of elastomeric fibers, fusible interlining fabrics, and apparel.

U.S. producers of elastomeric fibers used in the production of elastic fabrics for apparel applications include Bayer Polymers LLC, Charleston, SC; Dow Fiber Solutions, Midland, MI; Invista Inc., Wilmington, DE; RadiciSpandex Corp., Fall River, MA; and Unifi Inc., Greensboro, NC. Bayer Polymers produces Dorlastan® elastic fibers for textile applications at its facility in Goose Creek, SC; ***.[6] Dow Fiber Solutions (a division of The Dow Chemical Co.) produces Dow XLA elastic fiber (lastol) ***.[7] Invista (formerly DuPont Textiles & Interiors) produces Lycra® elastic fibers.[8] Invista stated that ***.[9]

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[4] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[5] The petition filed by Levi Strauss & Co. covers a series of interlining fabrics for use in apparel waistbands. Two of the fabrics are under consideration in this review; the remaining fabrics are under review by the Commission in investigation No. 332-458-002. For further information on all the interlining fabrics covered by the petition, see the two separate notices of CITA, "Request for Public Comments on Commercial Availability Request," *Federal Register*, Jan. 30, 2004 (69 F.R. 4494 and 4495), pp. 4494 and 4495.

[6] Bayer Polymers LLC, press release, "Bayer Fibers Business to Become Separate Entity; Launches New Name," Jan. 1, 2004, found on its website at *http://www.dorlastan.com*, retrieved Feb. 24, 2004, and ***, telephone interview by Commission staff, Feb. 23, 2004.

[7] ***, telephone interview by Commission staff, Feb. 25, 2004.

[8] A sale of Invista to Koch Industries, Inc., Witchita, KS, is pending. Invista, currently a business unit of DuPont, states that it is the world's largest integrated fiber and intermediates company. See Invista press release of Feb. 5, 2004, "Additional Invista Leaders Announced," found on the firm's website at *http://www.invista.com/news*, retrieved Feb. 24, 2004.

[9] ***, telephone interview by Commission staff, Feb. 23, 2004.

RadiciSpandex produces spandex fibers for narrow fabrics that, in part, are used in apparel waistbands.[10] The firm stated that ***.[11] Unifi Inc. produces polyester elastic yarns.[12] ***.[13]

Concerning fabrics, the Commission received a written submission from Narroflex Inc., which produces elastomeric narrow fabrics at its plant in Stuart, VA.[14] According to Narroflex, a wholly owned subsidiary of Canadian-based Wentworth Textiles Inc., it employs 257 persons at the Stuart plant and more than 20 persons exclusively in elastomeric fabric design. The firm said it supplies elastomeric narrow fabrics to numerous customers involved in the AGOA, CBTPA, and ATPDEA preference programs. Narroflex stated that the Stuart plant has ***. Narroflex stated that although it has had no direct contact with Levi Strauss, it was contacted by Tag-It Inc., a Delaware company that Narroflex believes is a contractor for Levi Strauss, with certain fabric specifications. Narroflex said it produced several accepted knitted narrow fabric samples for Tag-It ***.

Other U.S. producers of fusible interlining fabrics contacted by Commission staff include QST Industries, Chicago, IL; Precision Custom Coatings, LLC (PCC), Totowa, NJ; and Milliken & Co., Spartanburg, SC. QST Industries stated that ***.[15] ***.[16] ***.[17]

With regard to apparel, Commission staff contacted Haggar Clothing Co., Dallas, TX, and Tropical Sportswear International Corp. (TSI), Tampa, FL, which, like Levi Strauss, market dress and casual pants. Haggar produces "comfort fit waist pants . . . featuring a hidden, flexible waistband."[18] ***.[19] According to TSI, which sells pants under such brand-names as Savane® and Farah®, ***.[20]

Views of interested parties

The Commission received a written submission in opposition to the petition from Narroflex Inc., which stated that based on its understanding of the interlining fabrics named in the petition, it can produce all of the specified fabrics in a timely manner and in sufficient quantities to satisfy the anticipated demands of Levi Strauss (see earlier discussion for information on Narroflex).

The Commission received a written submission from Dow Fiber Solutions, which expressed concern that the limited nature of the petition could further reduce the ability of textile manufacturers to compete in development of new and innovative garments.[21] Dow said it would support the petition provided that the subject fabrics are defined as those containing elastomeric yarns rather than Lycra® yarns, a brand-name yarn of Invista (see "discussion of the product" above). Dow stated that use of an elastomerics designation, rather than a single market specific brand, will ensure maximum availability and opportunity for U.S. textile manufacturers.

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[10] RadiciSpandex Corp., press release, "Thin is in: New Polyether Elastane from RadiciSpandex Provides the Skinny on Narrow Fabrics," found on its website at *http://www.radicispandex.com*, retrieved Feb. 24, 2004.

[11] ***, telephone interview by Commission staff, Feb. 23, 2004.

[12] Information on Unifi's product line is from the firm's website at *www.unifi-inc.com*, retrieved Feb. 25, 2004.

[13] ***, telephone interview by Commission staff, Feb. 26, 2004.

[14] C.J. Erickson, Hodgson Russ LLP, New York, NY, counsel to Narroflex Inc., written submission to the Commission, Feb. 23, 2004.

[15] ***, telephone interview by Commission staff, Feb. 23, 2004.

[16] ***, telephone interviews by Commission staff, Feb. 23 and 26, 2004.

[17] ***, telephone interview by Commission staff, Feb. 23, 2004.

[18] See website of Haggar Clothing Co. at *http://haggar.com* for information on the firm's products.

[19] ***, telephone interview by Commission staff, Feb. 23, 2004.

[20] ***, telephone interview by Commission staff, Mar. 1, 2004.

[21] Jean K. Aukerman, Senior Brand Manager, Dow Fiber Solutions, a division of The Dow Chemical Co., written submission to the Commission, Feb. 25, 2004.

The Commission received a written submission in support of the petition from the American Apparel & Footwear Association (AAFA), the national trade association for the apparel and footwear industries.[22] AAFA stated that the proposed preferential treatment will not cause any adverse impact on U.S. apparel companies, most of whom are also engaged in the production of similar clothing overseas for import back into the United States. It stated that the proposed preferences would beneficially impact the U.S. based suppliers of textile materials to Levi Strauss.

Probable economic effect advice[23]

The Commission's analysis indicates that the probable economic effect of granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible AGOA and Andean beneficiary countries with waistbands of the subject fabrics, regardless of the source of the fabrics, will depend on the extent to which the interlining fabrics made in the United States are substitutable for the interlining fabrics named in the petition. At least one firm (Narroflex) asserts that it makes or can make the subject interlining fabrics. If the domestic interlining fabrics are substitutable for the interlining fabrics named in the petition, the proposed preferential treatment could adversely affect U.S. producers of the fabrics and their workers. However, time constraints have limited our ability to determine substitutability.

The proposed preferential treatment could have a negligible adverse effect on U.S. producers of elastomeric fibers and U.S. producers of the apparel, and their workers. The proposed preferential treatment could benefit apparel firms that make the garments in eligible countries and their U.S.-based workers. U.S. consumers of the apparel would also benefit from the proposed preferential treatment to the extent that importers pass on some of the duty savings to retail consumers in today's highly competitive market for casual pants, shorts, and skirts.

[22] Stephen Lamar, Senior Vice President, AAFA, written submission to the Commission, Feb. 10, 2004.
[23] The Commission's advice is based on information currently available to the Commission.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-004

Products	**Apparel of certain flannel fabrics**
Requesting Parties	**Oxford Industries, Inc., Atlanta, GA**
Date of Commission Report: USTR **Public**	**March 26, 2004** **March 2004**
Commission Contact	**Cynthia Trainor (202-205-3354; cynthia.trainor@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON MARCH 26, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***)

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible Caribbean Basin countries from certain flannel fabrics, regardless of the source of the fabrics, would have no immediate adverse effect on U.S. producers of such fabrics and their workers, because there currently is no known domestic production of the subject fabrics. However, two U.S. fabric producers assert that they can produce the subject fabrics to customer contract specifications. The proposed preferential treatment could have an adverse effect on U.S. producers of apparel and their workers, but would likely benefit U.S. firms making the apparel in the Caribbean Basin and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004.[1] Petitions are filed with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).

The Commission's advice in this report concerns a petition received by CITA on February 13, 2004, alleging that certain flannel fabrics for use in apparel cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA countries from such fabrics, regardless of the source of the fabrics. The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth (1) the action proposed to be implemented, (2) the reasons

[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of February 9, 2004 (69 F.R. 6003) and the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm.*

for such action, and (3) the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[2]

Discussion of the product

According to the petition, the flannel fabrics are classified in subheading 5208.43.00 of the Harmonized Tariff Schedule of the United States (HTS), which provides for woven fabrics of cotton, containing 85 percent or more by weight of cotton, weighing not more than 200 grams per square meter, of yarns of different colors, and of the construction 3-thread or 4-thread twill, including cross twill. As a result of Uruguay Round tariff concessions, the United States phased out the general rate of duty on the flannel fabrics as of January 1, 2004. The subject flannel fabrics, which have a soft, raised or fuzzy surface, are for use in apparel (except gloves), particularly shirts, blouses, sleepwear, underwear, and trousers. The 2004 general rates of duty on such apparel articles, which are classified in HTS chapter 62 (apparel, not knitted or crocheted), range from 6.1 percent to 19.7 percent ad valorem.

The petition was filed by Oxford Industries,[3] Atlanta, GA, a large U.S. apparel company ***.[4] According to the petition, the subject fabrics are lightweight yarn-dyed woven flannel fabrics made of ring-spun yarn. The firm uses the fabrics in a range of garments, including shirts and blouses made in Honduras ***. The fabrics are wholly of cotton, weigh 200 grams per square meter or less, and are made of 21 through 36 NM single ring-spun yarns[5] and in a 2x1 twill weave construction.[6] In the petition, Oxford notes that the fabrics are "almost identical" to the flannel fabrics granted a "commercial availability designation" under the CBTPA in July 2003, except that the subject fabrics are constructed in a 2x1 twill weave while the CBTPA-designated flannel fabrics are constructed in a 2x2 twill weave.[7] The petition states that, for certain patterns, a 2x1 twill produces a clearer, more consistent pattern. The petition further indicates that the exact same equipment and yarn are used to make both twills and that only a minor change to the weaving loom is needed to make a 2x1 twill rather than a 2x2 twill. Oxford asserts that there is no domestically made fabric available in commercial quantities that can be substituted for the subject flannel fabrics and that certain consumers and retailers are not prepared to accept another fabric.

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[2] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[3] According to its 2003 annual report, Oxford is a diversified international manufacturer and wholesale marketer of branded and private label apparel, and has manufacturing and sourcing operations in over 40 countries.

[4] ***.

[5] The term NM (number metric) means the number of 1,000-meter lengths of yarn in one kilogram.

[6] A twill weave is often described in terms of the pattern of warp yarns crossing filling yarns; in a 2x1 weave, the first digit refers to the number of filling yarns crossed over by the warp and the second digit to the number of filling yarns under which the warp passes before returning to cross the filling again. See Phyllis G. Tortora and Billie J. Collier, *Understanding Textiles*, 5th ed. (Upper Saddle River, NJ: Prentice-Hall, Inc., 1997), pp. 270, 271, and 276.

[7] Flannel fabrics of a kind covered by the petition under review, whether of a 2x1 or 2x2 twill weave construction, have been the subject of several commercial availability petitions. In June 2002, CITA received a petition from Intradeco Corp., Miami, FL, covering woven cotton flannel fabrics of a 2x2 twill weave construction; it denied the petition in August 2002. In April 2003, CITA received a new petition from counsel on behalf of Intradeco and several other firms that narrowed the scope of the 2002 petition. As CITA had already sought advice from the Commission in response to the 2002 request, CITA did not do so again. On July 23, 2003, CITA announced that it had determined that certain cotton flannel fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and, therefore, designated apparel articles (except gloves) made in eligible CBTPA countries from the subject fabrics as eligible for duty-free and quota-free treatment under the commercial availability provisions of the CBTPA (see CITA's notice in the *Federal Register* of July 29, 2003 (68 F.R. 44528). The third petition, filed by Oxford, is the subject of this Commission review (Inv. No. 332-458-004). On March 4, 2004, CITA received a fourth petition on cotton flannel fabrics; the petition states that the named fabrics are a 2x1 twill weave, of yarn numbers 14 through 41, and classified in HTS subheading 5208.43.00.

Discussion of affected U.S. industries, workers, and consumers

The segments of the U.S. textile and apparel sector affected by the proposed preferential treatment are yarn spinners and dyers, fabric producers, and apparel manufacturers. Commission staff contacted the only two firms known to weave cotton flannel fabrics in the United States for apparel: Dan River Inc., Danville, VA, and Wade Manufacturing Co., Wadesboro, NC. Both firms have vertically integrated operations in which they weave flannel fabrics from yarns produced in their own facilities; ***. According to Dan River and Wade Manufacturing, ***. According to Oxford, ***.[8]

Dan River stated that ***.[9] ***.

***.[10]

Wade Manufacturing stated that ***.[11]

With regard to apparel, Commission staff contacted the Kellwood Co., Chesterfield MO, and L.L. Bean, Freeport, ME. Kellwood, a firm whose product lines include men's, women's, children's, and infants' apparel, including sleepwear, casual wear, sporting specialty apparel, and career wear, asserts that the subject fabric is not available from U.S. producers and that there are no substitutes for the subject fabric. Kellwood further indicated that ***.[12]

L.L. Bean stated that ***.[13]

Views of interested parties

The Commission received a written submission in support of the petition from Kellwood, a major U.S.-based apparel manufacturer and marketer with facilities in over 20 states in the United States and 2003 sales of over $2.4 billion. Kellwood stated that it uses both printed and yarn-dyed flannel fabrics of various weights in its apparel production, and stated that during 1999-2003, U.S. producers of yarn-dyed flannel fabrics elected to discontinue production of the fabrics. Kellwood indicated that the lack of U.S. production, combined with the denial of a 2002 short supply petition covering yarn-dyed flannel fabric, resulted in Kellwood's relocation of production from an assembly factory in El Salvador to Mexico (under NAFTA) and Asia. Kellwood asserts that movement of its assembly operations from the Western Hemisphere further resulted in a loss of U.S. mill sales of fabrics complementary to these production processes.[14]

The Commission received two written submissions in opposition to the petition from Wade Manufacturing and Dan River. Wade Manufacturing stated that it could produce the subject fabrics in commercial quantities in a timely manner.[15] Dan River stated that it manufactures 100-percent cotton flannel fabrics in a 2x1 twill weave and weighing less than 200 grams per square meter, at its plant in Danville, VA.[16] Dan

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[8] ***, telephone interview by Commission staff, Mar. 18, 2004.

[9] ***, telephone interview by Commission staff, Mar. 16 and 22, 2004.

[10] ***, telephone interview by Commission staff, Mar. 23, 2004.

[11] ***, telephone interview by Commission staff, Mar. 16, 2004.

[12] Wendy Wieland Martin, Vice President, International Trade, Kellwood Co., telephone interview by Commission staff, Mar. 11, 2004.

[13] ***, telephone interview by Commission staff, Mar. 25, 2004.

[14] Wendy Wieland Martin, Vice President International Trade, Kellwood Co., written submission to the Commission, Mar. 15, 2004.

[15] Bernard M. Hodges, President, Wade Manufacturing Co., written submission to the Commission, Mar. 19, 2004.

[16] E. Linwood Wright, Vice President, Quality and Development, Dan River Inc., written submission to the Commission, Mar. 18, 2004.

River said that it is currently equipped to supply in excess of 100,000 yards per week of the subject fabrics.

Probable economic effect advice[17]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible CBTPA beneficiary countries from the subject fabrics, regardless of the source of the fabrics, would have no immediate adverse effect on U.S. producers of flannel fabrics and their workers, because there currently is no known domestic production of the subject fabrics. However, two U.S. fabric producers assert that they can produce the subject fabrics. These U.S. fabric producers stated that they no longer hold inventories of flannel fabrics, but rather produce the fabrics to customer contract specifications. The proposed preferential treatment would not adversely affect U.S. yarn producers, because the two U.S. fabric producers weave flannel fabrics from yarns made in their own facilities, but it could adversely affect U.S. yarn dyers ***. The expected increase in U.S. imports of apparel made from the subject fabrics could potentially displace some demand for the subject fabrics made domestically. The extent to which this displacement could occur depends on the reliability of sources of supply and any quality differences relative to price differences for U.S. firms using the imported fabrics. Although information on the quality, price, and delivery time of imported fabrics was not readily available, industry sources indicate that differences between domestic and imported fabrics are likely to be small ***.

The proposed preferential treatment could have an adverse effect on U.S. producers of the apparel and their workers. However, it would likely benefit U.S. and other firms making apparel in eligible CBTPA countries from the subject fabrics by increasing the supply of these fabrics and of lower priced fabrics. U.S. consumers of apparel made from the subject fabrics would benefit from the proposed preferential treatment to the extent that importers pass on some of the duty savings to retain consumers in today's highly competitive flannel apparel market.

[17] The Commission's advice is based on information currently available to the Commission.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-005

Products	**Apparel of certain flannel fabrics**
Requesting Parties	**Dillard's, Inc., Little Rock, AR, and BWA, Inc., New York, NY**
Date of Commission Report: USTR Public	**April 15, 2004 April 2004**
Commission Contact	**Cynthia Trainor (202-205-3354; cynthia.trainor@usitc.gov)**

NOTICE
THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON APRIL 15, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible Caribbean Basin countries from certain flannel fabrics, regardless of the source of the fabrics, would have no adverse effect on existing U.S. producers of such fabrics and their workers, because there currently is no known domestic production of the subject fabrics. However, two U.S. fabric producers assert that they can produce the subject fabrics to customer contract specifications. The proposed preferential treatment could have an adverse effect on U.S. producers of apparel and their workers, but would likely benefit U.S. firms making the apparel in the Caribbean Basin and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004.[1] Petitions are filed with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).

The Commission's advice in this report concerns a petition received by CITA on March 4, 2004, alleging that certain flannel fabrics for use in apparel cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA countries from such fabrics, regardless of the source of the fabrics. The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth (1) the action proposed to be implemented, (2) the reasons for such

[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of February 9, 2004 (69 F.R. 6003) and the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

action, and (3) the advice obtained from the Commission[2] and the appropriate advisory committee within 60 days after a request is received from an interested party.[3]

Discussion of the product

According to the petition, the flannel fabrics are classified in subheading 5208.43.00 of the Harmonized Tariff Schedule of the United States (HTS), which provides for woven fabrics of cotton, containing 85 percent or more by weight of cotton, weighing not more than 200 grams per square meter, of yarns of different colors, and of the construction 3-thread or 4-thread twill, including cross twill. As a result of Uruguay Round tariff concessions, the United States phased out the general rate of duty on flannel fabrics as of January 1, 2004. The subject flannel fabrics, which have a soft, raised or fuzzy surface, are for use in apparel (except gloves), particularly shirts, blouses, sleepwear, underwear, and trousers. The 2004 general rates of duty on such apparel articles, which are classified in HTS chapter 62 (apparel, not knitted or crocheted), range from 6.1 percent to 19.7 percent ad valorem.

The petition was filed on behalf of Dillard's, Inc., Little Rock, AR, and BWA, Inc., New York, NY, a large U.S. apparel retailer and apparel manufacturer, respectively. The petition states that the firms plan to use the subject fabrics in the production of garments, including shirts, blouses, robes, sleepwear, and underwear and intend to sew the garments in El Salvador, Guatemala, Honduras, the Dominican Republic, and Nicaragua. According to the petition, the subject fabrics are lightweight yarn-dyed woven flannel fabrics, wholly of cotton, weigh 200 grams per square meter or less, and are made of 14 through 41 NM single ring-spun yarns[4] and in a 2x1 twill weave construction.[5] In the petition, petitioners note that the fabrics are "almost identical" to the flannel fabrics granted a "commercial availability designation" under the CBTPA in July 2003, except that the subject fabrics are constructed in a 2x1 twill weave while the CBTPA-designated flannel fabrics are constructed in a 2x2 twill weave.[6] Petitioners assert that there is no domestically made fabric available in commercial quantities that can be substituted for the subject flannel fabrics and that certain consumers and retailers are not prepared to accept another fabric.

Discussion of affected U.S. industries, workers, and consumers

The segments of the U.S. textile and apparel sector potentially affected by the proposed preferential treatment are yarn spinners and dyers, fabric producers, and apparel manufacturers. Commission staff contacted the only two firms known to weave cotton flannel fabrics in the United States for apparel: Dan River Inc., Danville, VA, and Wade Manufacturing Co., Wadesboro, NC. Both firms have vertically integrated operations in which they weave flannel fabrics from yarns produced in their own facilities; ***.

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[2] As stated in the *Trade and Development Act of 2000, Pub. L. No. 106-200*, §211, 114 Stat. 2d, 279 (2000).

[3] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[4] The term NM (number metric) means the number of 1,000-meter lengths of yarn in one kilogram.

[5] A twill weave is often described in terms of the pattern of warp yarns crossing filling yarns; in a 2x1 weave, the first digit refers to the number of filling yarns crossed over by the warp and the second digit to the number of filling yarns under which the warp passes before returning to cross the filling again. See Phyllis G. Tortora and Billie J. Collier, *Understanding Textiles*, 5th ed. (Upper Saddle River, NJ: Prentice-Hall, Inc., 1997), pp. 270, 271, and 276.

[6] Flannel fabrics of a kind covered by the petition under review, whether of a 2x1 or 2x2 twill weave construction, have been the subject of several commercial availability petitions. In June 2002, CITA received a petition from Intradeco Corp., Miami, FL, covering woven cotton flannel fabrics of a 2x2 twill weave construction; it denied the petition in August 2002. In April 2003, CITA received a new petition from counsel on behalf of Intradeco and several other firms that narrowed the scope of the 2002 petition. As USTR had already obtained and provided to CITA advice from the Commission in response to the 2002 request, USTR did not do so again. On July 23, 2003, CITA announced that it had determined that certain cotton flannel fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and, therefore, designated apparel articles (except gloves) made in eligible CBTPA countries from the subject fabrics as eligible for duty-free and quota-free treatment under the commercial availability provisions of the CBTPA (see CITA's notice in the *Federal Register* of July 29, 2003 (68 F.R. 44528). On February 13, 2004, CITA received a petition from Oxford Industries, which was the subject of a recent Commission request from USTR (Inv. No. 332-458-004). On March 4, 2004, CITA received the current petition on cotton flannel fabrics.

Dan River stated that ***.[7] ***.

Wade Manufacturing stated that ***.[8]

According to Dillard's, ***.[9]

BWA, Inc., New York, NY, ***.[10]

With regard to apparel, Commission staff contacted J.C. Penney, Plano, TX; the Kellwood Co., Chesterfield MO; L.L. Bean, Freeport, ME; and Wal-Mart Stores, Inc., Bentonville, AR. J.C. Penney stated that ***.[11]

Kellwood, a firm whose product lines include men's, women's, children's, and infants' apparel, including sleepwear, casual wear, sporting specialty apparel, and career wear, asserted that the subject fabric is not available from U.S. producers and that there are no substitutes for the subject fabric. Kellwood further indicated that ***.[12]

L.L. Bean stated that ***.[13]

Wal-Mart Stores, Inc. stated that ***.[14]

Views of interested parties

The Commission received a written submission in support of the petition from Kellwood, a major U.S.-based apparel manufacturer and marketer with facilities in over 20 states in the United States and 2003 sales of over $2.4 billion. Kellwood stated that it uses both printed and yarn-dyed flannel fabrics of various weights in its apparel production, and stated that during 1999-2003, U.S. producers of yarn-dyed flannel fabrics elected to discontinue production of the fabrics.[15]

The Commission received two written submissions in opposition to the petition from Wade Manufacturing and Dan River. Wade Manufacturing stated that it could produce the subject fabrics in commercial quantities in a timely manner.[16] Dan River stated that it manufactures 100-percent cotton flannel fabrics in a 2x1 twill weave and weighing less than 200 grams per square meter, at its plant in Danville, VA.[17] Dan River said that it is currently equipped to supply in excess of 100,000 yards per week of the subject fabrics.

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[7] ***, telephone interview by Commission staff, Mar. 16 and 22, 2004.

[8] ***, telephone interview by Commission staff, Mar. 16, 2004.

[9] ***, telephone interview by Commission staff, Apr. 5, 2004.

[10] ***, telephone interview by Commission staff, Apr. 5, 2004.

[11] ***, telephone interview by Commission staff, Apr. 5, 2004.

[12] ***, telephone interview by Commission staff, Mar. 11, 2004.

[13] ***, telephone interview by Commission staff, Mar. 25, 2004.

[14] ***, telephone interview by Commission staff, Apr. 5, 2004, and e-mail to Commission staff, Apr. 7, 2004.

[15] Wendy Wieland Martin, Vice President International Trade, Kellwood Co., written submission to the Commission, Mar. 15, 2004. Kellwood further indicated that the lack of U.S. production, combined with the denial of a 2002 short supply petition covering yarn-dyed flannel fabric, resulted in Kellwood's relocation of production from an assembly factory in El Salvador (under CBTPA) to Mexico (under NAFTA) and to Asia. Kellwood asserted that movement of its assembly operations from the Western Hemisphere further resulted in a loss of U.S. mill sales of fabrics complementary to these production processes.

[16] Bernard M. Hodges, President, Wade Manufacturing Co., written submission to the Commission, Mar. 19, 2004.

[17] E. Linwood Wright, Vice President, Quality and Development, Dan River Inc., written submission to the Commission, Mar. 18, 2004.

Probable economic effect advice[18]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible CBTPA beneficiary countries from the subject fabrics, regardless of the source of the fabrics, would have no immediate adverse effect on U.S. producers of flannel fabrics and their workers, because there currently is no known domestic commercial production of the subject fabrics.[19] However, two U.S. fabric producers assert that they have and can produce the subject fabrics. These U.S. fabric producers stated that they no longer hold inventories of flannel fabrics, but rather produce the fabrics to customer contract specifications. The proposed preferential treatment would not adversely affect U.S. yarn producers, because the two U.S. fabric producers weave flannel fabrics from yarns made in their own facilities. Although information on the quality, price, and delivery time of imported fabrics was not readily available, industry sources indicate that differences between domestic and imported fabrics are likely to be small ***.

The proposed preferential treatment could have an adverse effect on U.S. producers of the apparel and their workers. However, it would likely marginally benefit U.S. and other firms making apparel in eligible CBTPA countries from the subject fabrics through employment of U.S. personnel, in the United States, who are engaged in activities (e.g, designing, planning, and marketing) related to that foreign production. U.S. consumers of apparel made from the subject fabrics would benefit from the proposed preferential treatment to the extent that importers pass on some of the duty savings to retain consumers in today's highly competitive flannel apparel market.

[18] The Commission's advice is based on information currently available to the Commission.
[19] ***.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-006

Products	**Certain apparel of cotton corduroy fabrics**
Requesting Parties	**S. Schwab Company Inc., Cumberland, MD**
Date of Commission Report: USTR **Public**	**April 16, 2004** **April 2004**
Commission Contact	**Vincent DeSapio (202-205-3435; vincent.desapio@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON APRIL 16, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible sub-Saharan African, Caribbean Basin, and Andean countries from certain cotton corduroy fabrics, regardless of the source of such fabrics, would likely have no immediate adverse effect on U.S. producers of corduroy fabrics and their workers.[1] At least one U.S. producer of corduroy fabrics asserts that it makes or can make the corduroy fabric named in the petition. According to this U.S. corduroy fabric producer, the volume of fabric sought by the petitioner is small compared with its total U.S. corduroy production. The proposed preferential treatment would likely have a negligible adverse effect on U.S. producers of the apparel and their workers, but would likely benefit U.S. and other firms making the apparel in eligible countries and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004.[2] Petitions are filed with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).

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[1] In May 2003, in its review of a petition on corduroy fabrics filed in 2003, the Committee for the Implementation of Textile Agreements (CITA) determined that the fabrics covered by the petition "can be supplied by the domestic industry in commercial quantities in a timely manner" and, thus, denied the request (see CITA notice published in the *Federal Register* of May 22, 2003 (68 F.R. 27992).

[2] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of February 9, 2004 (69 F.R. 6003) and the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

The Commission's advice in this report concerns a petition received by CITA on March 5, 2004, alleging that certain corduroy fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible AGOA, CBTPA, and Andean countries from such fabrics, regardless of the source of the fabrics. Within 60 days after a request is received from an interested party, the President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth (1) the action proposed to be implemented, (2) the reasons for such action, and (3) the advice obtained from the Commission and the appropriate advisory committee.[3]

Discussion of the product

According to the petition, the corduroy fabrics are classified under subheading 5801.22.90 of the Harmonized Tariff Schedule of the United States (HTS), which provides for cut corduroy cotton fabrics containing 7.5 wales per centimeter or fewer.[4] Apparel made from such fabrics, such as pants, jackets, coats, and skirts, are classified in HTS chapter 62 (apparel, not knitted or crocheted) and are subject to 2004 general rates of duty ranging from 8.2 percent to 16.6 percent ad valorem.

The petition states that the subject corduroy is wholly of cotton, contains 10 wales per inch (4 wales per centimeter), and has smooth round-cut wales. It states that the firm plans to use the fabrics in girls' apparel, such as pants, jackets, and skirts. The petition states that the apparel will be sold under a high-end, brand name and that the quality and cut of the fabric wale is the determining factor in making the garments. The petition notes that the customer requires a smooth round-cut (as opposed to a flat-cut) corduroy for its girls' apparel so as "to portray a very soft, feminine, luxurious, lush, velvety, appearance." According to the petition, ***. The petitioner stated that ***.

The petitioner, S. Schwab Co., Cumberland, MD, designs, manufactures, and distributes children's wear and is "best known for its highly successful brand 'Little Me'" line of children's wear that is marketed in better specialty and department stores.[5] The firm is the sole licensee for Ralph Lauren Childrenswear. The petitioner operates globally with offices in New York, Dallas, and Los Angeles as well as offices in Hong Kong, Mexico, and Colombia that oversee production in more than 22 countries, including India, Thailand, the Philippines, Singapore, Taiwan, Colombia, and Costa Rica.

Discussion of affected U.S. industries, workers, and consumers

The only known U.S. producers of cotton corduroy are Galey & Lord, New York, NY, and Greenwood Mills, Greenwood, SC.[6] Galey & Lord states that it is the only remaining vertical U.S. producer of corduroy and that it produces (weaves), dyes, and finishes the fabrics in its facilities in the United States. Greenwood Mills weaves corduroy fabrics in the United States, but sells them in a greige, or unfinished, state.

Galey & Lord stated that it produces more than 10 million yards of corduroy annually and employs 158 workers in its corduroy operations. The firm weaves the fabrics in its mill in McDowell County, NC, and dyes and finishes them in its plant in Society Hill, SC. The firm stated that it currently weaves a 10-wale

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[3] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[4] Cotton corduroy fabrics with more than 7.5 wales per centimeter, classifiable in HTS subheading 5801.22.10, were designated as "not available in commercial quantities" under the North American Free Trade Agreement (NAFTA) at the time of NAFTA's implementation in 1994. Goods so designated for NAFTA purposes were considered to qualify automatically under the corresponding statutory provisions in the AGOA, CBTPA, and ATPDEA. Because of that designation, the United States grants duty-free and quota-free treatment to apparel made in eligible NAFTA, AGOA, CBTPA, and ATPDEA countries from cotton corduroy fabrics with more than 7.5 wales per centimeter, regardless of the source of such fabrics.

[5] Information in this paragraph is entirely from the website of S. Schwab Co. at *www.sschwab.com*, retrieved Apr. 5, 2004.

[6] ***, telephone interviews by Commission staff, Mar. 16 and 18, 2004.

corduroy fabric in a blend of 88 percent cotton and 12 percent polyester, which it asserts is similar to the subject 100-percent cotton corduroy fabrics and, thus, it sees no difficulty in producing the subject fabrics in the volumes requested by the petitioner.[7] *** According to Galey & Lord, the production of a 100-percent cotton fabric instead of an 88-percent cotton/12-percent polyester blend "is easy to accomplish by substituting one of the yarns in the weaving process from cotton/poly to an all-cotton yarn."[8] Galey & Lord stated that, although it offered the petitioner "exactly the *** fabric requested," the petitioner informed Galey & Lord that the fabric is being sourced offshore.[9] ***[10] The petitioner stated that ***.[11]

Greenwood Mills stated that it produces and sells greige corduroy fabrics, including those having 10 wales per inch, ***[12]***.

Commission staff contacted three New York-based firms that market corduroy fabrics--Majestic Mills, Inc.; Velcorex Inc.; and Kaltex America. Majestic Mills purchases greige fabrics and arranges for the dyeing and finishing of the fabrics to customer specifications. The firm reported that ***.[13] Velcorex, a part of French-based SAIC Velcorex, dyes and finishes imported corduroy fabrics in its plant in Orangeburg, SC.[14] The firm stated that ***. Kaltex America, representing Grupo Kaltex of Mexico, reported that ***[15]***.[16]

Regarding corduroy apparel, Galey & Lord informed Commission staff that *** stated that Galey & Lord is the only U.S. producer of 10-wale corduroy fabric, that the price of the fabric made in Asia is lower than the price of the domestic fabric, that Asian suppliers usually require smaller minimum orders than does the U.S. firm, and that the domestic and Asian corduroy fabrics compare favorably in quality and other properties.[17]

Views of interested parties

The only written statement received by the Commission was from Galey & Lord, which stated its opposition to the proposed preferential treatment (also see earlier discussion of the firm for further information on its views).[18] The firm stated that it produces large quantities of corduroy, including the subject fabrics, and is prepared "to produce the fabrics requested by the petitioner in commercial quantities in a timely manner." The firm stated that it produced nearly 140,000 square yards of 10-wale corduroy fabric in an 88-percent cotton/12-percent polyester blend in 2003. The firm noted that the "round cut" of fabric desired by the petitioner can be achieved by brushing the corduroy pile and applying softening chemicals during the finishing process, causing the pile to "bloom" (spread out) and form a more rounded pile. According to Galey & Lord, although the volume of fabric sought by the petitioner is small compared with Galey & Lord's total corduroy production, the proposed preferential treatment would have a negative impact on its operations, financial performance, and workforce because it might encourage other

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[7] Robert J. McCormack, President, Galey & Lord, telephone interview by Commission staff, Mar. 23, 2004.

[8] Robert J. McCormack, President, Galey & Lord, written submission to the Commission, Mar. 26, 2004.

[9] Ibid.

[10] ***

[11] ***, telephone interview by Commission staff, Apr. 12, 2004.

[12] Information in the paragraph was obtained in telephone interviews by Commission staff with ***, Mar. 19, 2004, and Jay Self, Chief Operating Officer, Greenwood Mills, Apr. 5, 2004.

[13] ***, telephone interview by Commission staff, Mar. 19, 2004.

[14] Information on Velcorex is from its website *www.saicvelcorex.com*, retrieved Apr. 5, 2004, and from ***, telephone interview by Commission staff, Mar. 19, 2004.

[15] Information on Kaltex America is from ***, telephone interview by Commission staff, Mar. 22, 2004.

[16] The petition did not state the volume of the subject fabric required by the petitioner; however, Galey & Lord stated that the volume of fabric sought by the petitioner is small compared with Galey & Lord's total corduroy production. See Robert J. McCormack, President, Galey & Lord, written submission to the Commission, Mar. 26, 2004.

[17] ***, telephone interview by Commission staff, Mar. 25, 2004.

[18] Robert J. McCormack, President, Galey & Lord, written submission to the Commission, Mar. 26, 2004.

apparel makers to make similar arguments to obtain preferential treatment in future petitions. Such arguments might be used because corduroy is a fabric that is highly sensitive to fashion trends and designers demand "an ever-changing variety of blends, constructions and finishes."

Probable economic effect advice[19]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible sub-Saharan African, Caribbean Basin, and Andean countries from the subject fabric, would have no immediate adverse effect on U.S. producers of corduroy fabrics and their workers.[20] At least one U.S. producer of corduroy fabrics asserts that it makes or can make the corduroy fabric named in the petition. According to this U.S. corduroy fabric producer, the volume of fabric sought by the petitioner is small compared with its total corduroy production. The proposed preferential treatment likely would have a negligible adverse effect on U.S. producers of corduroy apparel, but likely would benefit U.S. and other apparel firms that make the garments in the eligible beneficiary countries through increasing the supply and variety of corduroy fabrics available in the marketplace, particularly lower priced corduroy fabrics. U.S. consumers of apparel made from the subject fabrics likely would benefit from the proposed preferential treatment because importers and retailers are likely to transfer some of the duty savings to consumers through lower priced products in today's highly competitive market for children's apparel.

[19] The Commission's advice is based on information currently available to the Commission.

[20] In May 2003, in its review of a petition on corduroy fabrics filed in 2003, the Committee for the Implementation of Textile Agreements (CITA) determined that the fabrics covered by the petition "can be supplied by the domestic industry in commercial quantities in a timely manner" and, thus, denied the request (see CITA notice published in the *Federal Register* of May 22, 2003 (68 F.R. 27992).

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-007

Products	**Apparel made with certain fusible interlinings (request for revocation)**
Requesting Parties	**Narroflex Inc., Stuart, VA**
Date of Commission Report: USTR Public	**May 27, 2004 May 2004**
Commission Contact	**Cynthia Trainor (202-205-3354; cynthia.trainor@usitc.gov)**

NOTICE
THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON MAY 27, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis indicates that the probable economic effect of revocation of duty-free and quota-free treatment for U.S. imports of apparel made in eligible Carribean Basin countries with waistbands of the subject interlining fabrics,[1] regardless of the source of the fabrics, depends upon the extent to which fusible interlining fabrics made in the United States are substitutable for the interlining fabrics named in the petition.[2] There is currently no known U.S. production of fusible interlining fabrics of a kind named in the petition; therefore, if domestically produced products are not substitutable, revocation of the preferential treatment would have no effect on U.S. producers of fusible interlinings and their workers. Revocation of the preferential treatment likely would have no immediate effect on U.S. producers of elastomeric fibers, elastomeric fabrics, and laminators as they collectively do not produce materials of a kind named in the petition. Revocation of the preferential treatment would likely have a potential negative effect on U.S. woven fabric producers if apparel manufacturers re-locate their operations to non-beneficiary countries. Revocation would have a small positive effect on U.S. apparel production to the extent that production of similar apparel is still being performed in the United States. Revocation will likely adversely affect apparel firms assembling finished garments in the Caribbean Basin and their U.S.-based workers, and U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the

[1] ***.

[2] The two interlining fabrics under review are identical to those named in the petition filed by Levi Strauss in December 2002 under the "commercial availability" provision of the CBTPA. In April 2003, CITA approved that petition (see *Federal Register* of April 22, 2003 (68 F.R. 19788). In the current petition, Narroflex Inc. (Narroflex), Stuart, VA, requests revocation of CBTPA designation for the materials of a kind named in the December 2002 petition.

Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[3]

The Commission's advice in this report concerns a petition received by CITA on April 16, 2004, alleging that certain fabrics used in waistbands (detailed below) can be supplied by the domestic industry in commercial quantities in a timely manner. The petition requests that CITA revoke its previous designation under the CBTPA regarding these fabrics.[4] The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[5]

Discussion of the product

According to the petition for revocation, the two interlining fabrics named in the petition are for use in the waistbands of apparel articles and are classified in subheading 5903.90.25 of the Harmonized Tariff Schedule of the United States (HTS). This rate line provides for textile fabrics of manmade fibers, impregnated, coated, covered, or laminated with plastics other than with poly(vinyl chloride) and polyurethane, not over 70 percent by weight of rubber or plastics. The fabrics are (1) an ultra-fine elastomeric crochet outer-fusible material with a fold line that is knitted into the fabrics and with an adhesive coating and (2) a fine elastomeric crochet inner-fusible material with an adhesive coating. Both fabrics have the adhesive coatings applied after going through a finishing process to remove all shrinkage from the material.[6] Garments containing waistbands of such fabrics, such as pants, shorts, and skirts, are classified primarily in HTS chapter 62 (apparel, not knitted or crocheted). The 2004 general rates of duty on such apparel range from 8.2 percent ad valorem for cotton skirts to 16.6 percent ad valorem for men's and women's cotton pants and shorts.

Discussion of affected U.S. industries, workers, and consumers

The segments of the U.S. textile and apparel sector potentially affected by the possible revocation of preferential treatment are apparel trim producers, elastic fabric producers, apparel manufacturers, woven fabric producers, fabric laminators, and elastic fiber producers.

Commission staff contacted Tag-It Pacific, Inc. (Tag-It), an apparel company that specializes in the distribution of a full range of trim items to manufacturers of fashion apparel, specialty retailers and mass merchandisers.[7] Tag-It serves as a supplier of trim items to owners of specific brands, brand licensees,

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[3] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of February 9, 2004 (69 F.R. 6003) and the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

[4] On April 22, 2003, following a determination that the subject fabrics could not be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA, CITA designated apparel containing these fabrics as eligible for duty-free treatment under the CBTPA (see CITA's notice published in the *Federal Register* of Apr. 22, 2003 (68 F.R. 19788).

[5] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[6] The petition filed by Narroflex covers two interlining fabrics for use in apparel waistbands. For further information on the interlining fabrics covered by the petition, see the CITA notice, "Request for Public Comments on Revoking a Commercial Availability Designation under the United States-Caribbean Basin Trade Partnership Act (CBTPA)," *Federal Register*, Apr. 23, 2004 (69 F.R. 22010), p. 22010.

[7] In 2002, Tag-It created a new division under the TEKFIT brand name that develops and sells apparel components that utilize the patented Pro-Fit technology, including a stretch waistband. TEKFIT entered into an exclusive license and intellectual property rights agreement with Pro-Fit Holdings Limited (UK), that gives Tag-It the exclusive rights to sell or sublicense stretch waistbands manufactured under the patented technology developed by Pro-Fit for garments manufactured anywhere in the world for the U.S. market and all U.S. brands, for the life of the patent and related know-how. TEKFIT®

(continued...)

and retailers, including Levi Strauss & Co. (Levi Strauss), San Francisco, CA. Specifically, Tag-It supplies Levi Strauss with TEKFIT® stretch waistbands for use in Dockers® twill-type pants only. Tag-It and TEKFIT® stated that ***.[8] ***.[9]

According to petitioner Narroflex,[10] the firm produces elastomeric narrow fabrics at its plant in Stuart, VA, where it employs 257 persons, including more than 20 exclusively in elastomeric fabric design. The firm said it supplies elastomeric narrow fabrics to numerous customers involved in the AGOA, CBTPA, and ATPDEA preference programs. Narroflex stated that the Stuart plant has ***. Narroflex stated that although it has had no direct contact with Levi Strauss, ***.[11]

Levi Strauss stated that in late 2002, prior to the Individual Fit® product launch, Levi Strauss informed Tag-It, its exclusive supplier of coated fusible interlinings, that U.S.-origin coated fusible interlinings were required to ensure duty-free treatment (under the CBTPA) of the finished trousers (which otherwise satisfied U.S. origin requirements),[12] and that, as a result, Tag-It took the following actions:

> (1) Established an internet-based request for procurement (RFP) and also contacted several fabric manufacturers directly and provided them with specifications for the coated fusible interlinings to ascertain U.S. manufacturing capability. Levi Strauss stated that there was no response to the RFP and that none of the contacted manufacturers, including Narroflex, indicated that they could manufacture the required coated fusible interlinings.
>
> (2) On December 12, 2002, as Tag-It had no alternative to a non-U.S.-source, Levi Strauss filed its initial short supply request.

Levi Strauss stated that it is a faulty premise to assume that Narroflex's ability to supply certain uncoated crocheted elastomeric fabric used as an input to coated fusible interlining[13] manufacture represents a

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[7] (...continued)
technology allows fabrics to be altered through the addition of stretch characteristics resulting in greatly improved fit and comfort through a built in stretch factor in standard waistbands that does not alter the appearance of the garment, but allows the waist to stretch out and back by as much as two waist sizes. Currently, Tag-It exclusively supplies Levi Strauss & Co. with TEKFIT® waistbands for their Dockers® twill-type pants programs only; however, the firm states that it is actively working with other large apparel manufacturers to develop and release the TEKFIT® technology in other types of garments. Based on information retrieved at *http://www.sec.gov/Archives/edgar/data/1047881/000117091804000239/fm10k2003.txt*, May 17, 2004.

[8] ***, telephone interviews by Commission staff, Apr. 29, 2004, and May 4, 11, and 13, 2004.

[9] ***, written submission to the Commission, May 13, 2004.

[10] Narroflex is a wholly-owned subsidiary of Canadian-based Wentworth Textiles Inc.

[11] Carl Straub, Vice President Finance & General Counsel, Narroflex Inc., written submissions to the Commission, May 14 and 19, 2004.

[12] Dockers® Individual Fit® pants incorporate a proprietary innovative special waistband that invisibly adjusts up to 2 inches while retaining the tailored appearance of a normal, all-cotton pant, a unique and essential design feature only achieved by successfully "fusing" coated fusible interlinings to both the outermost "self" fabric and the innermost lining fabric via a patented process. Individual Fit® waistbands are manufactured using a patented process that involves first compacting the "self fabric" (i.e., the outer fabric that will constitute the visible portion of the waistband) and then "fusing" (adhering) the coated fusible interlinings to that fabric. After assembly, the waistbands are subsequently sewn onto trousers which undergo an additional process to render them "wrinkle-free," whereby the assembled trousers are baked at 350 degrees Fahrenheit (180 degrees Celsius) to cure the resin finish, and then are industrially washed to remove excess resin not "baked in" to the "self" fabric. Written submissions to the Commission by Crowell & Moring, LLP, Washington, DC, on behalf of Levi Strauss & Co., May 10 and 14, 2004.

[13] Elastic fabrics are coated with an adhesive that will allow them to adhere to cotton and other composition materials during fusing at high temperatures. Coated fusible interlinings are made by first taking a crocheted elastomeric fabric (such as manufactured by Narroflex) and applying to it an adhesive coating that will allow it to adhere to the "self fabric" of the garment. Levi Strauss uses two different coated fusible interlinings in its Individual Fit® waistbands - an inner coated fusible interlining and an outer coated fusible interlining, with different functionality; the outer provides maximum stretch and durability to the waistband, and the inner provides some stretch but also exhibits a softer and more comfortable feel or "hand." Each of these (continued...)

domestic source for the coated fusible interlinings Levi Strauss needs. Levi Strauss indicated that the Narroflex fabric was subsequently coated by Apparel with an adhesive manufactured by Bemis Associates Inc. to yield a coated fusible outer interlining which Levi Strauss began using, with a Milliken fabric similarly coated inner, in waistband manufacture on a scale-up testing basis in January 2003. Levi Strauss said that on the basis of promising early results, purchase orders were issued to all four firms involved in manufacturing the two coated fusible interlinings. However, Levi Strauss indicated that:

> (1) By mid-February 2003, delamination problems were encountered on the finished trousers assembled with Narroflex elastomeric fabric as part of the waistband component; initial speculation of problems with the adhesive proved erroneous; upon subsequent testing it was discovered that shrinkage of the Narroflex outer fabric during fusing was a problem source.
>
> (2) Resolution of the Narroflex fabric shrinkage during fusing was attempted through May 2003, when Tag-It terminated its relationship with Narroflex.

Levi Strauss stated that it worked diligently with its coated fusible interlining procurer/supplier (Tag-It) to develop domestic sources of supply for the subject coated fusible interlinings, and even attempted to synthesize a domestic supply where none previously existed; however, these efforts failed to yield viable domestically-produced coated fusible interlinings that could withstand the rigors of the manufacturing process, baking, and repeated washings without an unacceptably high incidence of delamination. By contrast, according to Levi Strauss, waistbands assembled with outer coated fusible interlinings procured from United Kingdom sources developed by patent holder Pro-Fit exhibit very low incidences of delamination. Levi Strauss stated that it continues its search for a viable U.S.-origin coated fusible interlining and is hopeful that it will achieve the same in the near-term. Levi Strauss stated that in the interim the coated fusible interlinings required by Levi Strauss for use in Individual Fit® waistbands remain unavailable from domestic sources in commercial quantities in a timely manner.[14]

Concerning elastic fabrics, the Commission contacted petitioner Narroflex (see discussion on Narroflex above); Asheboro Elastics Corp.(Asheboro), Asheville, NC; Milliken & Co. (Milliken), Spartanburg, SC; Precision Custom Coatings, LLC (PCC), Totowa, NJ; and QST Industries (QST), Chicago, IL.

Asheboro stated that ***.[15]

***.[16] ***.[17]

***.[18]

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[13] (...continued)
coated fusible interlinings is "fused to self fabric via a patented process." The result is two different laminates - one of inner coated fusible interlining and self fabric, and one of outer coated fusible interlining and self fabric - which are subsequently sewn together and cut to length for use as waistbands. The finished waistbands thus have four layers: (1) the outermost self fabric laminated to (2) the outer coated fusible interlining; and (3) the inner coated fusible interlining laminated to (4) the innermost self fabric, which is made of cotton waistband lining material also known as "pocketing"-type material. Written submissions to the Commission by Crowell & Moring, LLP, Washington, DC, on behalf of Levi Strauss & Co., May 10 and 14, 2004.

[14] On May 11, 2004, Levi Strauss announced that it seeks a buyer for the Dockers® business unit, which includes the Individual Fit® trouser; therefore, future sourcing decisions if the CBTPA designation for the subject interlining fabrics were to be revoked may be the responsibility of the purchaser of the business unit. Written submissions to the Commission by Crowell & Moring, LLP, Washington, DC, on behalf of Levi Strauss & Co., May 10 and 14, 2004.

[15] ***, telephone interviews by Commission staff, May 14 and 26, 2004.

[16] ***, telephone interview by Commission staff, Feb. 23, 2004.

[17] ***, telephone interview by Commission staff, May 17, 2004.

[18] ***, telephone interview by Commission staff, May 18, 2004.

QST Industries stated that ***.[19]

With regard to laminators, Commission staff contacted Apparel, Philadelphia, PA,[20] and Meltex Inc. (Meltex), Huntington Beach, CA. ***.[21]

With regard to producers of dress and casual pants, Commission staff contacted Haggar Clothing Co.(Haggar), Dallas, TX; Levi Strauss (see discussion of Levi Strauss above); and Tropical Sportswear International Corp. (TSI), Tampa, FL. Haggar produces "comfort fit waist pants . . . featuring a hidden, flexible waistband."[22] ***.[23]

According to TSI, which sells pants under such brand-names as Savane® and Farah®, ***.[24]

U.S. producers of elastomeric fibers used in the production of elastic fabrics for apparel applications include Bayer Polymers LLC, Charleston, SC; Dow Fiber Solutions, Midland, MI; Invista Inc., Wilmington, DE; RadiciSpandex Corp., Fall River, MA; and Unifi Inc., Greensboro, NC. Bayer Polymers produces Dorlastan® elastic fibers for textile applications at its facility in Goose Creek, SC; ***.[25] Dow Fiber Solutions (a division of The Dow Chemical Co.) produces Dow XLA elastic fiber (lastol) ***.[26] Invista (formerly DuPont Textiles & Interiors) produces Lycra® elastic fibers.[27] Invista stated that ***.[28] RadiciSpandex produces spandex fibers for narrow fabrics that, in part, are used in apparel waistbands.[29] The firm stated that ***.[30] Unifi Inc. produces polyester elastic yarns.[31] ***.[32]

Views of interested parties

The Commission received written submissions in support of revocation from Narroflex (petitioner) and Asheboro. Narroflex stated that based on its understanding of the interlining fabrics named in the petition, it can produce all of the specified fabrics in a timely manner and in sufficient quantities to satisfy the anticipated demands of Levi Strauss (see earlier discussion for information on Narroflex). Asheboro stated that it has the capacity of 3.8 million yards per week[33] for making certain ultra-fine elastomeric crochet fabrics and that it is in the process of developing a large program on this item.

The Commission received written submissions in opposition to the revocation petition from Avondale Mills, Inc., Graniteville, SC; Galey & Lord, New York, NY; Levi Strauss; and Tag-It. Avondale, a U.S. producer

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[19] ***, telephone interview by Commission staff, May 11, 2004.

[20] ***.

[21] ***, telephone interview by Commission staff, May 14, 2004.

[22] See website of Haggar Clothing Co. at *http://haggar.com* for information on the firm's products.

[23] ***, telephone interview by Commission staff, May 19, 2004.

[24] ***, telephone interview by Commission staff, Mar. 1, 2004.

[25] Bayer Polymers LLC, press release, "Bayer Fibers Business to Become Separate Entity; Launches New Name," Jan. 1, 2004, found on its website at *http://www.dorlastan.com*, retrieved Feb. 24, 2004, and ***, telephone interview by Commission staff, Feb. 23, 2004.

[26] ***, telephone interview by Commission staff, Feb. 25, 2004.

[27] The sale of Invista to Koch Industries, Inc., Wichita, KS, was finalized on Apr. 30, 2004. See Invista press release of Apr. 30, 2004, "Koch Subsidiaries Buy Fibers Unit from DuPont," found on the firm's website at *http://www.invista.com/news*, retrieved May 26, 2004.

[28] ***, telephone interview by Commission staff, May 21, 2004.

[29] RadiciSpandex Corp., press release, "Thin is in: New Polyether Elastane from RadiciSpandex Provides the Skinny on Narrow Fabrics," found on its website at *http://www.radicispandex.com*, retrieved Feb. 24, 2004.

[30] ***, telephone interview by Commission staff, Feb. 23, 2004.

[31] Information on Unifi's product line is from the firm's website at *www.unifi-inc.com*, retrieved Feb. 25, 2004.

[32] ***, telephone interview by Commission staff, Feb. 26, 2004.

[33] Asheboro estimated that it represents approximately 10 percent of total U.S. capacity for certain ultra-fine elastomeric crochet fabrics, which is therefore 38 million yards per week. J. Keith Crisco, President, Asheboro Elastics Corp., written submission to the Commission, May 14, 2004.

of textile products, stated that it employs over 4,600 employees at its manufacturing facilities in Alabama, Georgia, South Carolina, and North Carolina. According to Avondale, it supplies Levi Strauss with tens of millions of dollars worth of fabric for use in the assembly of Individual Fit® trousers in the Dominican Republic, and this supply structure is viable only upon continuation of duty-free treatment for Levi Strauss garments manufactured in the Dominican Republic. Avondale said that as Levi Strauss is one of its largest customers, relocation of this manufacturing program, including fabric input sourcing, out of the Western Hemisphere would prove catastrophic to the firm and other U.S. textile manufacturers, costing tens of millions of dollars and potentially thousands of layoffs. Avondale stated that it opposes the petition based on the potential harm that revocation of the CBTPA waiver might inflict on its firm and other firms in the U.S. industry.[34]

Galey & Lord, a U.S. producer of textile products, stated that it employs over 3,000 employees at its manufacturing facilities in the United States. According to Galey & Lord, it supplies Levi Strauss with tens of millions of dollars worth of fabric for use in the assembly of Individual Fit® trousers in the Dominican Republic, and this supply structure is viable only upon continuation of duty-free treatment for Levi Strauss garments manufactured in the Dominican Republic. Galey & Lord said that relocation of this manufacturing program, including fabric input sourcing, out of the Western Hemisphere would prove catastrophic to the firm and other U.S. textile manufacturers, costing tens of millions of dollars and potentially up to a thousand layoffs. Galey & Lord stated that it opposes the petition based on the potential harm that revocation of the CBTPA waiver might inflict on its firm and other firms in the U.S. industry.[35]

Levi Strauss stated that based on its understanding of the interlining fabrics named in the petition, there is no domestic production of materials of a kind named in the petition available in a timely manner and in sufficient quantities to satisfy the firm's requirements (see earlier discussion for information on Levi Strauss).

Tag-It stated that ***.[36] ***.

Probable economic effect advice[37]

The Commission's analysis indicates that the probable economic effect of revoking duty-free and quota-free treatment for U.S. imports of apparel made in eligible CBTPA beneficiary countries with waistbands of the subject interlining fabrics, regardless of the source of the fabrics, will depend on the extent to which fusible interlining fabrics made in the United States are substitutable for the materials of a kind named in the petition. There is no known U.S. production of materials of a kind named in the original petition; ***. If there were domestic production of materials substitutable for materials of a kind named in the petition, the proposed revocation of preferential treatment could benefit U.S. producers of the subject interlining fabrics and their workers.

Absent substitutes, potential effects of the subject revocation are:

> (1) Revocation of the proposed preferential treatment would likely have no immediate effect on U.S. producers of elastomeric fibers, elastomeric fabrics, and laminators as they collectively do not produce materials of a kind named in the petition.

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[34] John G. Hudson, Jr, President, Apparel Fabrics Marketing, Avondale Mills, Inc., written submission to the Commission, May 19, 2004.

[35] Robert J. McCormack, President, Galey & Lord, written submission to the Commission, May 19, 2004.

[36] Herman Roup, President, TEKFIT®, and Jonathan Burstein, Director and Executive Vice President Operations, Tag-It Pacific, Inc., written submissions to the Commission, May 14 and 19, 2004, and telephone interviews by Commission staff, May 13 and 17, 2004.

[37] The Commission's advice is based on information currently available to the Commission.

(2) Revocation of the preferential treatment could have a potential negative effect on U.S. woven fabric producers if apparel manufacturers relocate their operations to non-beneficiary countries.

(3) Revocation would likely have a small positive effect on U.S. apparel production to the extent that production of similar apparel is still being performed in the United States.

(4) Revocation will likely adversely affect apparel firms assembling finished garments in eligible countries and their U.S.-based workers.

(5) U.S. consumers of the apparel would likely see some adverse effect from the proposed revocation of preferential treatment to the extent that importers are unable to use a CBTPA preference and are thus unable to pass on some of the duty savings that have recently been available to retail consumers in today's highly competitive market for casual pants, shorts, and skirts.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-008

Products	**Apparel of two-way stretch twill fabric**
Requesting Parties	**Pressman-Gutman Co., Inc., New York, NY**
Date of Commission Report: USTR **Public**	**July 30, 2004** **August 2004**
Commission Contact	**Vincent DeSapio (202-205-3435; vincent.desapio@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON JULY 30, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible Caribbean Basin countries from certain twill fabric, regardless of the source of the fabric, likely would have no adverse effect on U.S. textile producers and their workers, because there currently is no known domestic production of the subject fabric or the yarn used to produce it. One U.S. textile producer, Burlington Industries LLC, states that it has the ability and capacity to produce the subject fabric. The proposed preferential treatment would likely have a negligible adverse effect on U.S. producers of apparel of the subject fabric, and their workers. Further, the proposed preferential treatment would likely benefit U.S. firms making apparel in eligible countries from the fabric, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

The Commission's advice in this report relates to a petition received by CITA on June 18, 2004, alleging that certain twill fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA beneficiary countries from such fabric, regardless of the source of the fabric. The

[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

President is required to submit a report to the House Committee on Ways and Means and to the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[2]

Discussion of the product

The petition states that the subject fabric is classified in subheading 5515.11.00 of the Harmonized Tariff Schedule of the United States (HTS), which provides for woven fabrics of polyester staple fibers, mixed mainly or solely with viscose rayon staple fibers. The subject fabric is a dyed two-way stretch twill fabric containing, by weight, 62 percent staple polyester, 33 percent staple rayon, and 5 percent filament spandex. The fabric is woven with three-ply yarns, consisting of two 40s polyester-rayon blend staple yarns combined with a 40 denier filament spandex yarn in both the warp and filling to provide two-way stretch. The fabric weighs 285 grams per square meter and contains 40.9 warp ends and 27.6 filling picks per centimeter. Apparel made of the fabric is classified in HTS chapter 62 (apparel, not knitted or crocheted) and is subject to high general rates of duty for synthetic fiber apparel (e.g., 16 percent ad valorem for skirts, 26.9 percent ad valorem for blouses, and 28.6 percent ad valorem for women's pants in 2004).

The petitioner, Pressman-Gutman Co., New York, NY, stated that it imports the subject fabric from China for customers that cut and sew the fabric into women's blouses domestically.[3] The firm stated that it also imports apparel made in the CBTPA region (***) from the subject fabric. The petitioner asserted that the domestic mills from which it had purchased polyester-rayon fabrics similar to those named in the petition are no longer in business.[4] According to the petitioner, domestic mills making fabrics similar to the subject fabrics are typically specialty mills that normally do not specialize in apparel fabrics or do not use the kind of yarns used to make the subject fabric. The petitioner stated that the particular quality of the subject fabric that makes it unique relative to other fabrics is that it is made with fine-count polyester-rayon yarns. The firm stated that fine-count polyester-rayon yarns are not made domestically and that such yarns typically are not used in fabrics produced domestically. According to the firm, no domestic finishing mill has been able to finish two-way stretch polyester-rayon fabrics commercially.

Discussion of affected U.S. industries, workers, and consumers

Commission staff contacted U.S. textile producers identified in the petition or by industry officials as possible sources of the subject polyester-rayon fabric, or yarn of a kind used to make the subject fabric, but none of these firms stated that it currently produces either product, as discussed below.[5] One U.S. producer, Burlington Industries LLC, states that it has the capability to produce the subject fabric.

Yarn producers

Commission staff contacted five U.S. yarn producers identified by industry sources as possible sources of yarn of a kind used to make the subject fabric: Patrick Yarn Mills, Kings Mountain, NC; Ramtex Inc.,

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[2] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[3] Information in paragraph is from the petition filed with CITA by Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP, on behalf of Pressman-Gutman Co., Inc., June 18, 2004, and Laurence M. Friedman, Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP, telephone interview by Commission staff, July 27, 2004.

[4] According to the petitioner, the mills no longer in business included J.P. Stevens, Marion Mills, Stonecutter Mills Corp., Reeves Bros. Inc., and United Merchants and Manufacturers.

[5] In general, the manufacturing progression for textiles is: (1) fibers are processed into yarns, (2) yarns are made into fabrics, (3) fabrics are cut into components, and (4) components are sewn into finished goods.

Ramseur, NC; National Spinning Co., Shelby, NC; Broadnax Mills, Broadnax, VA; and Carolina Mills, Maiden, NC. Although none of these firms stated that it produces the yarn, one firm stated that similar yarns had been made domestically in the past and that there is no technical reason preventing U.S. mills from making the yarn today. According to this firm, the yarn is not made domestically because there is little domestic production of the apparel articles for which the subject fabric and the specified yarn would be used (mainly blouses).[6]

Fabric producers

Commission staff contacted seven U.S. fabric producers identified in the petition or by industry officials as possible sources of the subject polyester-rayon fabric, but none of them stated that it produces the fabric. However, Burlington Industries LLC, Greensboro, NC, on behalf of the International Textile Group (ITG, its parent company), stated that it has the production capacity to produce the subject fabric from purchased yarn in large volumes at two ITG plants, but would not accept an order for such fabric at price points that would undermine its long-term profitability. Burlington stated that it makes polyester/rayon fabric without spandex for the uniform trade and wool fabric with spandex and, therefore, has "the ability to operate in these markets." Burlington is an integrated producer of finished textile goods and employs between *** workers.[7]

Inman Mills, Inc., Inman, SC, stated that it produces greige (unfinished) fabrics for the apparel and home furnishings industries and employs *** workers. The firm stated that it does not produce the subject fabric ***.[8]

Texfi Industries, Inc., New York, NY, stated that it employs *** workers and operates a weaving mill in Radford, VA, and a dyeing and finishing mill in Edenton, NC. The firm stated that it does not produce the subject fabric ***.[9]

Johnston Textiles, Inc., Columbus, GA, stated that it operates mills in Opp and Phoenix, AL, and employs *** workers. The firm stated that it produces greige and finished goods, primarily for the apparel and upholstery industries. Johnston stated that it does not produce the subject fabric ***.[10]

Schneider Mills, Inc., New York, NY, stated that it has greige fabric mills in Taylorsville and Forest City, NC, and employs *** workers. The firm stated that ***. The firm cited sourcing of the polyester-rayon yarn domestically as a potential problem in producing the subject fabric.[11]

Two other U.S. fabric producers contacted by Commission staff (Milliken & Co., Spartanburg, SC, which employs nearly *** workers, and Wade Manufacturing Co., Wadesboro, NC, which employs nearly *** workers), each stated that it does not produce the subject fabric.[12]

Views of interested parties

No written submissions were filed with the Commission.

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[6] ***, telephone interview by Commission staff, July 26, 2004.

[7] Joe Gorga, President & Chief Executive Officer, Burlington Industries LLC, written submission to CITA, July 8, 2004.

[8] ***, telephone interview by Commission staff, July 7, 2004.

[9] ***, telephone interview by Commission staff, July 7, 2004.

[10] ***, telephone interview by Commission staff, July 7, 2004.

[11] ***, telephone interview by Commission staff, July 19, 2004.

[12] Telephone interviews by Commission staff with ***, July 12, 2004, and ***, July 20, 2004.

Probable economic effect advice[13]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible CBTPA beneficiary countries from the subject fabric, regardless of the source of the fabric, would likely have no adverse effect on U.S. yarn or fabric producers, or their workers, because there is no known domestic production of the subject fabric or the yarn used to make the fabric. One U.S. fabric producer, Burlington Industries LLC, stated that it has the ability and capacity to produce the subject fabric.

The proposed preferential treatment likely would have a negligible adverse effect on U.S. producers of blouses and other apparel articles made from the subject fabric, and on their employees. It is believed that the U.S. market for such apparel is small and supplied largely by imports. The expected increase in imports of apparel made in eligible CBTPA countries from the subject fabric would likely displace mostly imports from other countries, because U.S. production is likely for niche markets or quick response programs. The proposed preferential treatment would likely benefit U.S. firms making apparel in eligible CBTPA countries from the subject fabric by increasing the supply and availability of such fabrics. The proposed preferential treatment also would likely benefit U.S. consumers of apparel made from the subject fabric to the extent that importers pass on some of the duty savings to retail consumers.

[13] The Commission's advice is based on information currently available to the Commission.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-009

Products		**Apparel of Certain Cotton Flannel Fabrics**
Requesting Parties		**Picacho, S.A., La Libertad, El Salvador**
Date of Commission Report:	**USTR** **Public**	**August 25, 2004** **August 2004**
Commission Contact		**Heidi Colby (202-205-3391; heidi.colby@usitc.gov) or Kimberlie Freund (202-205-3458; kimberlie.freund@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON AUGUST 25, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

This report contains the Commission's advice for nine flannel fabrics contained in nine separate petitions. The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible Caribbean Basin countries from the nine flannel fabrics subject to this review, regardless of the source of the fabrics, would likely have no adverse effect on U.S. fabric producers and their workers, because there is currently no known U.S. production of such fabrics. However, one U.S. producer asserted that it can produce the nine subject fabrics as specified in the petitions. The proposed preferential treatment would likely have little or no effect on U.S. producers of apparel and their workers, but would likely benefit U.S. firms making the apparel in the Caribbean Basin and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

The Commission's advice in this report concerns nine petitions received by CITA on July 14, 2004, alleging that certain cotton flannel fabrics cannot be supplied by the domestic industry in commercial

[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

quantities in a timely manner.[2] The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA countries from such fabrics, regardless of the source of the fabrics. The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[3]

Discussion of the product

The nine fabrics named in the petitions are 100-percent cotton flannel fabrics for use in shirts, trousers, nightwear, robes and dressing gowns, and woven underwear, and are classified in statistical reporting numbers 5208.32.30.40, 5209.31.60.50 (six of the fabrics), and 5209.41.60.40 (two of the fabrics) of the Harmonized Tariff Schedule of the United States (HTS). The 2004 general rates of duty on the fabrics range from 7.0 percent to 8.4 percent ad valorem. The apparel articles are classified in HTS chapter 62 (apparel, not knitted or crocheted), and the rates of duty range from 6.1 percent to 19.7 percent ad valorem.

The petitioner, Picacho, S.A., is a manufacturer of woven apparel located in El Salvador, and is in partnership with Ben Wachter Associates (BWA), a U.S. apparel company.[4] The flannel fabrics are a specific type of flannel called "chamois cloth" and are primarily used in shirts and pajamas. For each of the fabrics, the filling yarn is open-end spun yarn and the warp yarn is ring spun yarn. The petitioner indicated that "the warp yarns must be ring spun in order to provide the additional tensile strength required to offset the degrading effects of heavy napping on both sides" of the fabric, and the filling yarns must be open-end spun to impart the required loft and softness to the fabric. All of the fabrics are also napped on both sides (napping provides the fuzzy finish) and sanforized (to prevent shrinkage), but differ from each other by weight, finish, construction, and/or yarn size. The petitioner indicated that production of the subject fabrics requires specialized machinery for the napping process. The table below provides a complete list and description of the fabrics. Seven of the fabrics are piece-dyed, or dyed after they have been woven into fabric, which generally results in a solid-color fabric. The other two fabrics are woven with yarns that have already been dyed (yarns of different colors), resulting in a pattern, such as a plaid or gingham.

Discussion of affected U.S. industries, workers, and consumers

The segments of the U.S. textile and apparel sector potentially affected by the proposed preferential treatment are U.S. fabric producers, yarn spinners and dyers, and apparel manufacturers.

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[2] The petitioner originally filed 12 petitions with CITA but later withdrew three of the petitions because of "minor but significant errors with regard to the coloration of the fibers and yarns of each fabric." See CITA notice published in the *Federal Register* on Aug. 2, 2004 (69 F.R. 46137). On July 30, 2004, CITA received three new petitions covering flannel fabrics. See CITA notice published in the *Federal Register* on Aug. 6, 2004 (69 F.R. 47915), which are the subject of USITC Inv. No. 332-458-010.

[3] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[4] Information in this paragraph is from the petitions and from Andrew Lerner, Ben Wachter Associates (BWA), telephone interview by Commission staff, Aug. 5, 2004.

Fabric producers

Commission staff contacted four firms believed to weave cotton flannel fabric in the United States for apparel: Dan River Inc., Danville, VA; Wade Manufacturing Co., Wadesboro, NC; Mount Vernon Mills,[5] Inc., Greenville, SC; and Cone Mills LLC, Greensboro, NC. ***.[6]

Fabric specifications				
HTS statistical reporting number	**Finish[1]**	**Weight and Width[2]**	**Construction**	**Yarn number for the warp, filling, and overall average yarn number (AYN)[3]**
Fabric 1: 5208.32.30.40	Piece-dyed	152.6 g/m2; 150 cm	24.4 warp ends/cm; 15.7 filing picks/cm; total: 40.1 threads/cm2	Warp: 40.6 metric Filling: 20.3 metric AYN: 39.4 metric
Fabric 2: 5209.31.60.50	Piece-dyed	251 g/m2; 160 cm	22.8 warp ends/cm; 15 filling picks/cm; total: 37.8 threads/cm2	Warp: 40.6 metric Filling: 8.46 metric AYN: 24.1 metric
Fabric 3: 5209.31.60.50	Piece-dyed	203 g/m2 150 cm	20.5 warp ends/cm; 17.3 filling picks/cm; total: 37.8 threads/cm2	Warp: 40.6 metric Filling: 13.5 metric AYN: 27.9 metric
Fabric 4: 5209.31.60.50	Piece-dyed	251 g/m2; 150 cm	21 warp ends/cm; 18 filling picks/cm; total: 39 threads/cm2	Warp: 40.6 metric Filling: 13.54 metric AYN: 23.32 metric
Fabric 5: 5209.31.60.50	Piece-dyed	291.5 g/m2; 160 cm	23.2 warp ends/cm; 15 filling picks/cm; total: 38.2 threads/cm2	Warp: 27.07 metric Filling: 8.46 metric AYN: 20.1 metric
Fabric 6: 5209.31.60.50	Piece-dyed	291.5 g/m2; 160 cm	26.8 warp ends/cm; 16.5 filling picks/cm; total: 43.3 threads/cm2	Warp: 25.46 metric Filling: 10.16 metric AYN: 23.8 metric
Fabric 7: 5209.31.60.50	Piece-dyed	254 g/m2; 160 cm	20 warp ends/cm; 14.5 filling picks/cm; total: 34.5 threads/cm2	Warp: 28.8 metric Filling: 8.46 metric AYN: 20.1 metric
Fabric 8: 5209.41.60.40	Gingham check or plaid of yarns of different colors	251 g/m2; 160 cm	22.8 warp ends/cm; 15 filling picks/cm; total: 37.8 threads/cm2	Warp: 40.6 metric Filling: 8.46 metric AYN: 24.1 metric
Fabric 9: 5209.41.60.40	Plaid of yarns of different colors	251 g/m2; 160 cm	19.7 warp ends/cm; 11.8 filling picks/cm; total: 31.5 threads/cm2	Warp: 20.3 metric Filling: 8.46 metric AYN: 20.1 metric

[1] In addition, all the fabrics must be napped on both sides and sanforized.
[2] All the widths are "cuttable" widths, useable for making the garments.
[3] For each of the nine fabrics, the warp yarn is ring spun, and the filling yarn is open-end spun.

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[5] ***

[6] ***

[7].

***.[8] However, Wade indicated that, in looking at the distinct specifications required for each fabric (e.g., weight, thread count, number of picks, dyeing technique, yarn type, and napping), it has the capability to produce each of the fabrics in question "in commercial quantities in a timely manner."[9] *** Wade indicated that it also can make the yarns listed in the petition. *** Wade noted that it can match the quality of the fabrics from Portugal. ***

Yarn producers

The Commission contacted two yarn producers that Wade Manufacturing indicated as possible suppliers of ring spun yarn for flannel fabrics: ***, and ***. ***[10]***.[11]

Apparel companies

The Commission contacted BWA, a U.S.-based apparel company that is partnering with the petitioner. BWA indicated that it designs the garments made with the subject fabrics, does the merchandising and sales out its New York City offices, and manufactures the garments in partnership with Picacho, S.A. in El Salvador.[12] BWA stated that the fabrics used by the petitioner are from Portugal, the highest quality supplier of such fabrics. ***.

According to *** U.S. retailer, it had sourced its chamois-cloth fabric from Cone Mills, but Cone Mills stopped producing these fabrics.[13] *** stated that it is very difficult to produce chamois cloth fabric because of its complexity. It indicated that the U.S. industry is no longer making the fabrics that are the subject of the petitions. ***.[14]
[15].

Views of interested parties

No written submissions were filed with the Commission.

Probable economic effect advice[16]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible CBTPA beneficiary countries from the subject fabrics, regardless of the source of the fabrics, would likely have no adverse effect on U.S. producers of yarn or fabric, or their workers, because there is no known domestic production of the subject fabric or of the yarn used in the fabric. One U.S. producer, Wade Manufacturing, stated it has the ability and capacity to produce the subject fabrics.

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[7] ***

[8] Information in this paragraph is from Bernard M. Hodges, President, Wade Manufacturing Co., telephone interview by Commission staff, Aug. 9, 2004.

[9] Specifically, Wade indicated it can make the 100-percent cotton woven flannel fabrics in various constructions using 8-41 metric count open-end and ring spun yarns. Bernard M. Hodges, President, Wade Manufacturing Co., facsimile to Commission staff, Aug. 12, 2004.

[10] ***, telephone interview by Commission staff, Aug. 12, 2004.

[11] ***, telephone interview by Commission staff, Aug. 12, 2004.

[12] Information in this paragraph is from Andrew Lerner, Ben Wachter Associates (BWA), telephone interview by Commission staff, Aug. 5, 2004.

[13] Information in this paragraph is from ***, telephone interview by Commission staff, Aug. 10, 2004.

[14] ***

[15] Information in this paragraph is from ***, telephone interview by Commission staff, Aug. 9, 2004.

[16] The Commission's advice is based on information currently available to the Commission.

The proposed preferential treatment would likely have little or no effect on U.S. producers of apparel and their workers, because any increase in imports would likely displace U.S. imports from other countries rather than U.S. production. However, U.S. firms making apparel in eligible CBTPA countries and their U.S.-based workers would likely benefit from the proposed preferential treatment. U.S. consumers of apparel made from the subject fabric would likely benefit from the proposed preferential treatment to the extent that importers pass on some of the duty savings to retail consumers.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-010

Products	**Apparel of Certain Cotton Flannel Fabrics**
Requesting Parties	**Picacho, S.A., La Libertad, El Salvador**
Date of Commission Report: USTR **Public**	**August 25, 2004** **August 2004**
Commission Contact	**Heidi Colby (202-205-3391; heidi.colby@usitc.gov) or Kimberlie Freund (202-205-3458; kimberlie.freund@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON AUGUST 25, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

This report contains advice for three flannel fabrics contained in three separate petitions. The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible Caribbean Basin countries from the three flannel fabrics subject to this review, regardless of the source of the fabrics, would likely have no adverse effect on U.S. fabric producers and their workers, because there is currently no known U.S. production of such fabrics. However, one U.S. producer asserted that it can produce the three subject fabrics as specified in the petitions. The proposed preferential treatment would likely have little or no effect on U.S. producers of apparel and their workers, but would likely benefit U.S. firms making the apparel in the Caribbean Basin and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

The Commission's advice in this report concerns three petitions received by CITA on July 30, 2004, alleging that certain cotton flannel fabrics cannot be supplied by the domestic industry in commercial

[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

quantities in a timely manner.[2] The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA countries from such fabrics, regardless of the source of the fabrics. The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[3]

Discussion of the product

The three products named in the petitions are 100-percent cotton flannel fabrics for use in shirts, trousers, nightwear, robes and dressing gowns, and woven underwear, and are classified in statistical reporting numbers 5208.42.30.00 and 5209.41.60.40 of the Harmonized Tariff Schedule of the United States (HTS). The 2004 general rates of duty on the fabrics range from 7.5 percent to 8.1 percent ad valorem. The apparel articles are classified in HTS chapter 62 (apparel, not knitted or crocheted), and the rates of duty range from 6.1 percent to 19.7 percent ad valorem.

The petitioner, Picacho, S.A., is a manufacturer of woven apparel located in El Salvador, and is in partnership with Ben Wachter Associates (BWA), a U.S. apparel company.[4] The flannel fabrics are a specific type of flannel called "chamois cloth" and are primarily used in shirts and pajamas. For each of the fabrics, the filling yarn is open-end spun yarn and the warp yarn is ring spun yarn. The petitioner indicated that "the warp yarns must be ring spun in order to provide the additional tensile strength required to offset the degrading effects of heavy napping on both sides" of the fabric, and the filling yarns must be open-end spun to impart the required loft and softness to the fabric. In addition, the "filling yarns must be spun from fibers that have been stock dyed prior to carding and the warp yarns must be dyed prior to weaving in order to give the desired heathered effect" in the woven fabric. All of the fabrics are napped on both sides (napping provides the fuzzy finish) and sanforized (to prevent shrinkage), but differ from each other by weight, construction, and/or yarn size. The table below provides a list and description of each of the fabrics.

[2] Originally 12 petitions were filed with CITA, but three of the petitions were later withdrawn because the petitions "contain minor but significant errors with regard to the coloration of the fibers and yarns of each fabric." On July 30, 2004, CITA received three new petitions covering flannel fabrics, which are the subject of this investigation. The original nine petitions are the subject of USITC Inv. No. 332-458-009.

[3] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[4] Information in this paragraph is from the petitions and from Andrew Lerner, Ben Wachter Associates (BWA), telephone interview by Commission staff, Aug. 5, 2004.

Fabric specifications				
HTS statistical reporting numbers	**Finish[1]**	**Weight and Width[2]**	**Construction**	**Yarn number for the warp, filling, and overall average yarn number (AYN)[3]**
Fabric 1: 5208.42.30.00	Yarns of different colors	152.6 g/m2; 150 cm	24.4 warp ends/cm; 15.7 filling picks/cm; total: 40.1 threads/cm2	Warp: 40.6 metric Filling: 20.3 metric AYN: 39.4 metric
Fabric 2: 5209.41.60.40	Yarns of different colors	251 g/m2; 160 cm	22.8 warp ends/cm; 17.3 filling picks/cm; total: 40.1 threads/cm2	Warp:40.6 metric Filling:8.46 metric AYN: 24.1 metric
Fabric 3: 5209.41.60.40	Yarns of different colors	251 g/m2; 160 cm	20.1 warp ends/cm; 16.5 filling picks/cm; total: 36.6 threads/cm2	Warp: 27.07 metric Filling: 10.16 metric AYN: 23.3 metric

[1] In addition, all the fabrics must be napped on both sides and sanforized.

[2] All the widths are "cuttable" widths, useable for making the garments.

[3] For each of the three fabrics, the warp yarn is ring spun, and the filling yarn is open-end spun. The filling yarns must be spun from cotton that is stock-dyed prior to carding and the warp yarns must be dyed prior to weaving to provide a "heathered" effect in the finished fabric.

Discussion of affected U.S. industries, workers, and consumers

The segments of the U.S. textile and apparel sector potentially affected by the proposed preferential treatment are U.S. fabric producers, yarn spinners and dyers, and apparel manufacturers.

Fabric producers

Commission staff contacted four firms believed to weave cotton flannel fabric in the United States for apparel: Dan River Inc., Danville, VA; Wade Manufacturing Co., Wadesboro, NC; Mount Vernon Mills,[5] Inc., Greenville, SC; and Cone Mills LLC, Greensboro, NC. ***.[6] ***[7]***.

***.[8] However, Wade indicated that, in looking at the distinct specifications required for each fabric (e.g., weight, thread count, number of picks, dyeing technique, yarn type, and napping), it has the capability to produce each of the fabrics in question in commercial quantities in a timely manner. *** Wade indicated it also can make the yarns listed in the petition. *** Wade noted that it can match the quality of the fabrics from Portugal. ***

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[5] ***

[6] ***

[7] ***

[8] Information in this paragraph is from Bernard M. Hodges, President, Wade Manufacturing Co., telephone interview by Commission staff, Aug. 9, 2004.

Yarn producers

The Commission contacted two yarn producers that Wade Manufacturing indicated as possible suppliers of ring spun yarn for flannel fabrics: ***, and ***. ***[9]***.[10]

Apparel companies

The Commission contacted BWA, a U.S.-based apparel company that is partnering with the petitioner. BWA indicated that it designs the garments made with the subject fabrics, conducts the merchandising and sales out its New York City offices, and manufactures the garments in partnership with Picacho, S.A. in El Salvador.[11] BWA stated that the fabrics used by the petitioner are from Portugal, the highest quality supplier of such fabrics. ***.

According to *** U.S. retailer, it had sourced its chamois-cloth fabric from Cone Mills, but Cone Mills stopped producing these fabrics.[12] *** stated that it is very difficult to produce chamois cloth fabric because of its complexity. It indicated that the U.S. industry is no longer making the fabrics that are the subject of the petitions. ***.[13]

[14].

Views of interested parties

No written submissions were filed with the Commission.

Probable economic effect advice[15]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible CBTPA beneficiary countries from the subject fabrics, regardless of the source of the fabrics, would likely have no adverse effect on U.S. producers of yarn or fabric, or their workers, because there is no known domestic production of the subject fabric or of the yarn used in the fabric. One U.S. producer, Wade Manufacturing, stated it has the ability and capacity to produce the subject fabrics.

The proposed preferential treatment would likely have little or no effect on U.S. producers of apparel and their workers because any increase in imports would likely displace U.S. imports from other countries rather than U.S. production. However, U.S. firms making apparel in eligible CBTPA countries and their U.S.-based workers would likely benefit from the proposed preferential treatment. U.S. consumers of apparel made from the subject fabric would likely benefit from the proposed preferential treatment to the extent that importers pass on some of the duty savings to retail consumers.

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[9] ***, telephone interview by Commission staff, Aug. 12, 2004.

[10] ***, telephone interview by Commission staff, Aug. 12, 2004.

[11] Information in this paragraph is from Andrew Lerner, Ben Wachter Associates (BWA), telephone interview by Commission staff, Aug. 5, 2004.

[12] Information in this paragraph is from ***, telephone interview by Commission staff, Aug. 10, 2004.

[13] ***

[14] Information in this paragraph is from ***, telephone interview by Commission staff, Aug. 9, 2004.

[15] The Commission's advice is based on information currently available to the Commission.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-011

Products	**Apparel of polyester lining fabric**
Requesting Parties	**Fishman & Tobin, Inc., Conshohocken, PA**
Date of Commission Report: USTR **Public**	**September 14, 2004** **September 2004**
Commission Contact	**Robert W. Wallace (202-205-3458; robert.wallace@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON SEPTEMBER 14, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports from eligible Caribbean Basin countries of apparel containing certain polyester lining fabric, regardless of the source of the fabric, could have some adverse effect on U.S. fabric producers and their workers. The proposed preferential treatment would likely have a negligible adverse effect on U.S. yarn and apparel producers and their workers. Further, the proposed action would likely benefit U.S. firms making apparel in eligible countries from the subject fabric, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

The Commission's advice in this report relates to a petition received by CITA on August 3, 2004, alleging that certain lining fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA beneficiary countries from such fabric, regardless of the source of the fabric. The President is required to submit a report to the House Committee on Ways and Means and to the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action,

[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm.*

and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[2]

Discussion of the product

The petition states that the lining fabric is classified in subheading 5407.61.99 of the Harmonized Tariff Schedule of the United States (HTS), which provides for woven fabrics containing 85 percent or more by weight of non-textured polyester filaments.[3] The subject fabric is made wholly of polyester filaments and is used by the petitioner as a lining in boys' woven manmade-fiber pants and suit jackets. The average rate of duty on such garments, classified in HTS chapter 62 (apparel, not knitted or crocheted), is 27 percent ad valorem in 2004.

The fabric named in the petition is a dyed taffeta, or plain-weave, fabric, which usually has a smooth hand and a lustrous surface.[4] The petition describes the fabric as a "190T" fabric in a 110 x 80 construction--that is, the fabric has 110 warp ends and 80 filling picks per inch, for a total thread count of 190.[5] The fabric contains 68 denier yarns in both the warp and filling, and it is dyed by the jet overflow and jet spinning methods.[6] The petition states that the fabric is a heavy-weight lining fabric and that the heavy weight of the fabric provides the extra seam strength for "active" children's clothing.

The petitioner, Fishman & Tobin, imports children's clothing either from its subsidiary in the Dominican Republic or from independent contractors in Guatemala and Nicaragua.[7] A trade report states that the firm "controls some 90 percent of the boys' dresswear market--offering suits, dress shirts, blazers and pants for the Claiborne, Van Heusen, Arrow and Sean John brands, as well as private label [***] programs."[8] Fishman & Tobin sources the dyed lining fabrics from Taiwan and China, ***. According to the petition, Fishman & Tobin intended to purchase the lining fabric in lots of 50,000 yards.

Discussion of affected U.S. industries, workers, and consumers[9]

Fabric producers

Polyester lining fabrics of a kind named in the petition reportedly are made in the United States by at least three firms: Milliken & Co., Spartanburg, SC; New River Industries, New York, NY; and Schneider Mills,

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[2] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[3] CITA received three other petitions from the petitioner on August 3, 2004, covering cotton twill fabric (Commission Inv. No. 332-458-012), fancy polyester-rayon suiting fabric (332-458-013), and fancy polyester filament fabric (332-458-014). On August 24, 2004, the petitioner withdrew the fancy polyester-rayon suiting fabric petition and replaced it with two new petitions covering similar fabrics but made on different systems (332-458-017).

[4] Information in the paragraph is from the petition filed with CITA on behalf of Fishman & Tobin by Sharretts, Paley, Carter & Blauvelt, P.C., July 29, 2004, and email correspondence with Fishman & Tobin and its counsel, Aug. 2004.

[5] Warp ends run lengthwise on the loom and in the fabric, while filling picks run across the width of the loom and fabric.

[6] Jet overflow dyeing is a common method of dyeing fabric. The fabric is in rope form and tension free during dyeing, which can give the fabric very good shrinkage and a soft hand or feel. A pump in the dyeing machine jets the water (dye liquor) to flow in the circular tube, the fabric rotates in the tube with the water flow so as to achieve level dyeing. By using jet overflow dyeing, there is less possibility of side-to-side and end-to-end shade differences; however, batch-to-batch shade variation will be more than that in the continuous dyeing method. Robert Granato, Vice President of Fabric Sourcing and Purchasing, Fishman & Tobin, email correspondence, Aug. 17, 2004.

[7] The petition states that the garments imported by Fishman & Tobin from the Dominican Republic are made by Minikin Togs, Inc., a subsidiary that has seven factories and two warehouses located in the Santiago Free Trade Zone.

[8] See "The Present: Offering a True Competitive Advantage," *DNR* (*Daily News Record*), Fairchild Publications, New York, NY, Aug. 9, 2004 (page 9 of a 19-page advertisement on the firm celebrating 90 years of being in business).

[9] In general, the manufacturing progression for textiles is: (1) fibers are processed into yarns, (2) yarns are made into fabrics, (3) fabrics are cut into components, and (4) components are sewn into finished goods.

Inc., Taylorsville, NC. These firms produce polyester lining fabrics and sell them in the unfinished ("grey") state to "converters," which purchase grey fabrics, both domestic and imported, and arrange for their dyeing and finishing to customer specifications. U.S. production of grey polyester lining fabrics for apparel in 2003 was estimated at 9 million yards *** and 12 million square yards ***.[10]

The three U.S. producers stated that they weave lining fabrics of non-textured polyester filaments in constructions that are very similar, but not identical, to the subject lining fabric. The firms stated that their polyester lining fabrics are slightly lighter in weight than the subject lining fabric but they "achieve the same results" in the garment as the subject fabric. *** stated that although the domestic polyester lining fabric is not in the exact same construction as that specified in the petition, the "nature of the cloth" is such that the domestic fabric is a "very close" substitute for the subject lining fabric. The U.S. producers stated that they could easily and quickly adjust their equipment in order to make the polyester lining fabric specified in the petition and have it available for delivery within a short period of time, if they were to receive an order for it. ***

Trade sources assert that apparel polyester lining fabrics made in China cost much less than those made in the United States. For a dyed taffeta lining fabric wholly of non-textured polyester filaments, trade sources indicate that the average per-yard cost is $0.50 - $0.55 for the Chinese cloth (landed, duty-paid value), compared with $0.90 - $1.00 for a U.S.-made fabric. Fishman & Tobin state that its average purchase price for 190T polyester lining fabric made in China *** per yard. U.S. producers contend that the domestic and imported fabrics are of comparable quality, finish, and construction. A different view on this issue was expressed by *** contends that the imported fabrics are of better quality than the domestic fabrics because they have "more construction," while *** asserts that the Chinese polyester lining fabric is of lower quality.

Milliken & Co.[11] states that it currently supplies the men's and women's tailored clothing market with a variety of lining styles and weights.[12] *** Milliken stated that it has the machinery, the manpower, and the desire to supply the U.S. and the Caribbean apparel industries with commercial quantities of the polyester lining fabrics; that it could easily make the subject fabric; and that the production of the subject fabric would involve minimal adjustments and downtime.

An official of New River Industries stated that *** it weaves polyester lining fabrics in a ***.

Officials of Schneider Mills stated that the firm weaves *** million yards of polyester lining fabrics a year ***.[13] They said the firm weaves polyester lining fabrics in ***. The officials stated that the firm weaves the fabrics in two different pick constructions ***, both of which, a company official contended, achieve the same results as the subject 80 pick fabric. ***

Converters

Commission staff contacted ***, which purchase domestic and imported grey fabrics and dye and finish them to customer specifications. ***[14] The official stated *** that the U.S. market for polyester taffeta lining fabrics is very small. According to *** official, the average per-yard price of a "190T" 100-percent polyester taffeta lining fabric, dyed in a black solid color, is about $1 for domestic fabric, compared with

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[10] ***

[11] The petition filed on behalf of Fishman & Tobin contains a copy of a letter that Fishman & Tobin received from Milliken in response to its request for a price quote for specified quantities of the subject fabric. In this letter, a Milliken marketing manager stated that the subject fabric "is not a product that we currently have or plan to manufacture in the near future." ***

[12] Information on Milliken is from its written submission to CITA, Aug. 23, 2004, ***, telephone interviews by Commission staff, Aug. 18 and 20, 2004.

[13] ***, telephone interviews by Commission staff, Aug. 24 and 30, and Sept. 1, 2004.

[14] ***, telephone interview by Commission staff, Aug. 19, 2004.

quotes on imported fabric available for sale in the United States of $0.50 - $0.55 ***. *** The *** official stated that a 110 x 80 construction is a typical or standard construction in Asia and that the standard construction of U.S.-made polyester lining fabric is 96 x 68 or 96 x 78.

An official of *** stated that, following the Asian financial crisis of the late 1990s, the cost of polyester filament lining fabric made in Asia declined by roughly half, ***.[15] ***

Yarn producers

Unifi, Inc. states that it produces and sells 100-percent polyester filament yarns for use in lining fabrics produced domestically.[16] Unifi states that its domestic production includes capacity to produce 68 denier warp-drawn flat yarn or 68 denier flat yarn purchased domestically and beamed for the weaver. The firm states that both yarns are suitable for the warp direction. According to Unifi, although it does not produce the 68 denier yarn for the fill direction, this fill yarn may also be purchased from domestic producers.

Apparel companies

Trade sources indicate that the U.S. market for apparel polyester lining fabrics is small. According to ***, polyester lining fabrics accounted for an estimated 5 percent of total U.S. production of apparel lining fabrics in 2003.[17] In addition, imports supply most of the domestic market for boys' garments that contain linings. As noted above, the petitioner, Fishman & Tobin, which reportedly accounts for about 90 percent of the U.S. market for boys' dress clothing, currently manufactures or sources the garments abroad, such as in CBTPA countries. *** A Fishman & Tobin customer for its boys' clothing, ***, stated that polyester linings are used in boys' dress clothing because the linings are more durable than acetate linings, which are commonly used in men's tailored clothing, and help minimize seam or fabric slippage in "active" children's wear.[18]

Views of interested parties

No written submissions were filed with the Commission.

Probable economic effect advice[19]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports from eligible CBTPA beneficiary countries of apparel containing the subject lining fabric, regardless of the source of the fabric, could have some adverse effect on U.S. fabric producers and their workers. The information available to the Commission indicates that domestic polyester filament lining fabrics are very similar to the subject lining fabric in terms of construction and average yarn count and that there are no significant differences in fabric quality. However, the cost of the imported subject lining fabric is much lower than that for similar domestic polyester lining fabrics. The proposed preferential treatment could reduce demand for U.S.-made apparel polyester lining fabrics and, in turn, weaken demand for U.S.-made yarns used in such fabrics.

The proposed preferential treatment likely would have a negligible adverse effect on U.S. yarn and apparel producers, and their employees. Imports supply most of the domestic market for boys' apparel articles that contain polyester lining fabrics. The expected increase in imports of apparel made in eligible CBTPA

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[15] ***, telephone interview by Commission staff, Aug. 26, 2004.

[16] Thomas H. Caudle, Jr., Vice President, Global Operations, Unifi, Inc., written submission to CITA, Aug. 23, 2004.

[17] *** estimated that U.S. production of grey apparel lining fabrics for 2003 totaled 165 million yards, of which 9 million yards were of polyester; 122 million yards, acetate; 30 million yards, nylon; and 3 million yards, rayon/bemberg.

[18] ***, interview by Commission staff, Sept. 7, 2004.

[19] The Commission's advice is based on information currently available to the Commission.

countries from the subject fabric would likely displace mostly imports from other countries, because U.S. production is likely for niche markets or quick response programs. The proposed preferential treatment would likely benefit U.S. firms making apparel in eligible CBTPA countries with the subject lining fabric by increasing the supply and availability of such fabrics. The proposed preferential treatment also would likely benefit U.S. consumers of apparel made from the subject fabric to the extent that importers pass on some of the duty savings to retail consumers. As noted above, the rate of duty on boys' manmade-fiber garments containing the polyester lining fabric is 27 percent ad valorem.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-012

Products	**Apparel of cotton twill fabric**
Requesting Parties	**Fishman & Tobin, Inc., Conshohocken, PA**
Date of Commission Report: USTR **Public**	**September 14, 2004** **September 2004**
Commission Contact	**Laura Rodriguez (202-205-3499; laura.rodriguez@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON SEPTEMBER 14, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible Caribbean Basin countries from certain cotton twill fabric, regardless of the source of the fabric, likely would have no effect on U.S. fabric producers and their workers, because there currently is no known domestic production of such fabric. According to the petitioner, attempts were made to source the subject fabric from four U.S. fabric producers who reportedly confirmed that they do not currently make the subject fabric. Several U.S. textile producers, however, assert that they can produce the subject fabric. The proposed preferential treatment would likely have little or no effect on U.S. producers of apparel and their workers, but would likely benefit U.S. firms making the apparel in the Caribbean Basin from the fabric and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

The Commission's advice in this report relates to a petition received by CITA on August 3, 2004, alleging that certain cotton twill fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA beneficiary countries from such fabric, regardless of the source of the fabric. The

[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

President is required to submit a report to the House Committee on Ways and Means and to the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[2]

Discussion of the product

The petition states that the fabric is a 100-percent cotton twill fabric for use in boys' and young men's pants and is classified in subheadings 5208.3300.00 and 5209.3200.20 of the Harmonized Tariff Schedule of the United States (HTS), which provide for woven fabrics of cotton, containing 85 percent or more by weight of cotton and weighing either less than or equal to 200 grams per square meter or more than 200 grams per square meter, respectively.[3] The 2004 general rate of duty on the fabric is 8.4 percent ad valorem. The subject fabrics are used by the petitioner in children's and young men's pants, which are classified in HTS chapter 62 (apparel, not knitted or crocheted) and subject to a rate of duty of 16.6 percent ad valorem.

The petitioner, Fishman & Tobin, a designer, manufacturer, and importer of children's clothing,[4] sources the subject fabric from China and uses it in the production of children's garments in the Far East,[5] which are then imported into the United States.[6] The fabric is dyed using a continuous dyeing method[7] and constructed of 3-thread or 4-thread twill, including cross twill, and is woven with two-ply[8] in the warp and fill, of combed cotton ring spun yarns (sizes 40 x 2/21 x 2)[9] in widths of 57/58. The petition states that the fabric is used primarily in high-quality children's and young men's casual pants.[10] The petitioner indicates that the construction of the fabric allows it to do an enzyme wash and still produce a garment that is durable and that has a soft, luxurious hand.

Although limited product pricing information is available, the consensus among trade sources is that the subject cotton twill fabrics made in Asia cost significantly less than those made in the United States.

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[2] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[3] An industry source, ***, stated that the subject fabric as described in the petition can be classified only under HTS 5209.3200.20 because its characteristics imply that the fabric must weigh more than 200 grams per square meter. "Rough calculations" by *** confirmed that the fabric as described weighs more than 200 grams per square meter. ***

[4] Fishman & Tobin reportedly "controls some 90 percent of the boys' dresswear market–offering suits, dress shirts, blazers and pants for the Claiborne, Van Heusen, Arrow and Sean John brands, as well as private label programs." See "The Present: Offering a True Competitive Advantage," *DNR* (*Daily News Record*), Fairchild Publications, New York, NY, Aug. 9, 2004 (page 9 of a 19-page advertisement on the firm celebrating 90 years of being in business).

[5] ***

[6] Information in this paragraph is from the petition and from Gail Cumins, Sharretts, Paley, Carter & Blauvelt, P.C., and Robert Granato, Fishman & Tobin, telephone interviews and email correspondence with Commission staff, Aug. 27-Sept. 2, 2004.

[7] Industry sources note that continuous dyeing is a standard dyeing process for cotton twill fabric that is considered efficient (70-80 yard of fabric can be dyed per minute) and cost effective. The fabrics are pulled through a range and then dipped through a dye, go through a steaming unit where the dye is fixed, and then the fabrics are washed and dried. The quality of continuously dyed products does not differ from products that undergo other dyeing processes. Some mills such as Galey and Lord weave and dye their cotton twill fabrics (as indicated in its written submission); other mills weave cotton twill fabrics and send them out to other mills to be dyed. Telephone interviews by Commission staff with Richard Malachowski, Technical Manger, Cranston Print Works Company, Aug. 25, 2004; Bill Havird, Vice President, Piece Dyed Goods, Mount Vernon Mills, Aug. 12, 2004; and Norman Chapman, Inman Mills, Aug. 26 and Sept. 2, 2004.

[8] Two single yarns (i.e., a group of single filaments or staple fibers twisted or spun into a yarn) that are twisted with each other to form a "plied" or "multiple" or "folded" yarn.

[9] The cotton yarn number indicates the number of 840-yard lengths in a pound of yarn. The higher the cotton yarn number, the lighter and finer the yarn.

[10] According to one of the petitioner's customers, the fabrics are also used in boys' and young men's suit pants and dress pants. ***, telephone interview by Commission staff, Aug. 30, 2004.

Fishman & Tobin states that ***.[11] A leading U.S. producer of cotton twill fabrics, Galey & Lord, states that it sells a cotton twill fabric that is similar to the subject fabric ***.[12]

Discussion of affected U.S. industries, workers, and consumers

Yarn producers

Commission staff contacted six yarn producers identified by industry representatives as possible sources of yarn of a kind used to make the subject fabric: Buhler Quality Yarn Corp., Jefferson, GA; National Textiles, LLC, Winston-Salem, NC; Parkdale Mills, Gastonia, NC; R.L. Stowe Mills, Inc., Belmont, NC; Wellstone Mills, Greenville, SC; and Swift Spinning, Columbus, GA.

An official with R.L. Stowe Mills stated that the firm produces combed cotton ring spun yarn in the 40 x 2/21 x 2 size of a kind used in the subject fabric, ***.[13]

An official with Swift Spinning stated that the firm produces combed cotton ring spun yarn ***, but does not currently produce the yarn used in the subject fabric. ***[14] [15]

An official with Parkdale Mills stated that the company produces combed cotton ring spun yarn ***, but that it currently does not produce yarn of this size. Nevertheless, the firm claims that it could easily produce and deliver such yarns ***. Parkdale Mills's representative noted that such yarn is readily available in the United States and that 40s yarns are a commodity item and not difficult to make.[16]

An official with Buhler Quality Yarn Corp. stated that the firm does not currently produce the 40 x 2/21 x 2 yarn ***. It noted that such yarn is "pretty standard" and requires standard production.[17] A representative with National Textiles, LLC stated that the firm does not *** produce the subject yarn ***.[18] A Wellstone Mills representative stated that the firm produces a variety of cotton ring spun yarns, ***. He stated that plied yarns require more labor-intensive production than singles yarns and therefore are expensive. Asian mills can sell such yarns for 5 or 10 cents per pound less than those made in the United States.[19]

Fabric producers

Commission staff contacted seven fabric producers identified in the petition or by industry sources as possible producers of the subject fabrics: Galey & Lord, Greensboro, NC; Mount Vernon Mills, Greenville, SC; Delta Mills Marketing, Inc., Greenville, SC; Avondale Mills Inc., Graniteville, SC; Milliken & Co,[20] Spartanburg, SC; Inman Mills, Inman, SC; and Greenwood Mills, Greenwood, SC. Fishman & Tobin stated that it contacted four fabric mills (Milliken & Co., Mount Vernon Mills, Avondale Mills, Inc., and Delta Mills Marketing, Inc.) in an effort to source the subject fabric domestically and that these firms replied that they do not currently produce the subject fabric. Also, Fishman & Tobin stated that when it inquired about sourcing the subject fabric from another mill, ***.[21] In separate telephone interviews conducted by

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[11] ***

[12] ***

[13] ***, telephone interview by Commission staff, Aug. 26, 2004.

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[15] ***, telephone interview by Commission staff, Aug. 26, 2004.

[16] ***, telephone interview by Commission staff, Aug. 26, 2004.

[17] ***, telephone interview by Commission staff, Aug. 27, 2004.

[18] ***, telephone interview by Commission staff, Aug. 30, 2004.

[19] ***, telephone interview by Commission staff, Aug. 26, 2004.

[20] Milliken indicated that it does not produce the 100-percent cotton twill fabric specified in the petition. ***, telephone interview by Commission staff, Aug. 18, 2004.

[21] Bob Granato, Fishman & Tobin, email to Commission staff, Sept. 3, 2004.

Commission staff, officials of Delta Mills Marketing and three other fabric mills indicated that they could produce the subject fabric if they received an order.

Galey & Lord submitted a written statement to the Commission voicing its objection to the petition. Although Galey & Lord states that it does not currently produce the subject fabric, it asserts that "it is a leading vertical producer (includes weaving and finishing) of twill in the U.S. with annual production of over *** yards" and that it "has made over the years other twill fabrics of ring spun plied yarns with constructions close to that specified in the petition." Galey & Lord states that it weaves at its McDowell plant in McDowell County, North Carolina and dyes and finishes the fabric at its Society Hill plant in Society Hill, South Carolina. Galey & Lord asserts that it produces large quantities of 100-percent cotton twill and is ready to produce the fabrics requested by the petitioner in commercial quantities in a timely manner. Galey & Lord notes that it currently manufactures in commercial quantities for a domestic customer a 100-percent cotton twill of 124 x 57 construction from ring spun 40s plied yarn in the warp and ring spun 30s plied in the filling, and also has made samples for two domestic customers of a 100-percent cotton twill of 141 x 72 construction from the ring spun 40s plied yarn in the warp and ring spun 20s singles in the filling. Galey & Lord states that the constructions of the cotton twill fabrics that it currently produces and the samples it has made "bracket the petitioners' construction and can be readily adjusted to the petitioner's specifications; the warp yarns are identical and the filling yarns can easily be adjusted to 20s plied." Galey & Lord asserts that "we will be readily able to manufacture the precise construction that the petitioner seeks...If we were to get a request from a potential customer for a sample of the fabrics described in the petition, we would be able to submit a sample from within several weeks, or sooner, if it is in our stock inventory. If the customer were to place a commercial order, we would be able to fulfill it in 12 weeks."[22]

An official of Mount Vernon Mills stated that the company does not produce the subject fabric; ***.[23]

An official of Delta Mills Marketing stated that the firm makes numerous cotton fabrics that are classified under HTS subheading 5209.32.00, but not the fabric named in the petition. The official stated that the firm could easily make the product, but that it has not received an order for it. ***[24]

An official of Avondale Mills stated that the firm produces cotton twill fabrics but not the fabrics specified in the petition. ***[25]

An official of Milliken Mills indicated that the firm does not produce the fabric specified in the petition.[26]

An official of Inman Mills stated that the firm makes all kinds of cotton twill fabrics using combed cotton 40s yarns (that are readily available from R.L. Stowe Mills and other yarn producers) ***, but they do not currently produce the subject fabrics ***.[27]

An official of Greenwood Mills stated that the firm makes cotton twill fabrics but that it does not currently make the fabric specified in the petition because it does not have an order for it. Greenwood Mills produces fabrics in response to orders. He also stated the firm has the capacity to produce the fabric, ***.[28]

Apparel Retailers

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[22] Information in this paragraph is from the written submission to the Commission from Galey & Lord, Aug. 26, 2004 and from Carlos Moore on behalf of Galey & Lord, telephone interviews by Commission staff, Aug. 23 and Aug. 26, 2004.

[23] ***, telephone interview by Commission staff, Aug. 12, 2004.

[24] ***, telephone interview by Commission staff, Aug. 25, 2004.

[25] ***, telephone interview by Commission staff, Aug. 18, 2004.

[26] ***, telephone interviews by Commission staff, Aug.18, 2004.

[27] ***, telephone interview by Commission staff, Aug. 26, 2004.

[28] ***, telephone interview by Commission staff, Aug. 26, 2004.

*** is one of the petitioner's customers for apparel that is made from the fabric named in the petition. An official of *** stated that the company requests the use of certain specialty fabrics such as the subject fabric for its lines of boys' and young men's dress pants and suit pants. He noted that the company seeks these fabrics for the "look and texture" they impart to the apparel that differs from the fabrics used in its casual twill pants. The subject fabrics are used in the higher-end jackets and pants that are sold under *** private label brands. *** requests different specialty fabrics for different seasons and styles which change frequently from season to season and within a season. *** request for the subject fabric "is not a constant" and is not necessarily a part of its "core program." The *** official noted that the firm has several core programs with the petitioner for products that it knows are produced in Central America.[29] The petitioner states that production in the Caribbean gives it a quicker response and more control over production and that ***.[30]

*** is another of the petitioner's customers for apparel made from the fabric named in the petition. *** confirmed that it requests the use of the fabric named in the petition for certain boys' and young men's pants that it carries. *** stated that because of its compact construction and the plied yarns used to produce it, the subject fabric "can take abuse" and gives the garments durability as well as a "slick, smooth hand" which *** considers important for building loyalty among its private label customers. He stated that there is a trend toward using fabrics of tighter construction and *** intention is "to make a tougher, better pant." *** estimated that the firm's market for apparel made from the subject cotton twill fabrics is about ***. He estimates that the apparel market demand for the subject cotton twill fabrics is about 1 to 3 percent of the total cotton twill pants market. *** stated that he believes that there is little production of ring-spun combed cotton yarns in the United States and that U.S. mills are not competitive in this product. Instead, U.S. mills excel in producing open-end spun yarns and other coarser yarns and fabrics that have simple, coarser construction (e.g., denim). He also stated that he believes that U.S. textile mills are not getting orders for the subject fabric because they are not price competitive with imported fabrics.[31]

Views of interested parties

The Commission received a written submission in opposition to the petition from Galey & Lord, which stated that it produces large quantities of 100-percent cotton twill and is ready to produce the fabrics requested by the petitioner in commercial quantities in a timely manner (see earlier discussion for information on Galey & Lord).

Probable economic effect advice[32]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible CBTPA beneficiary countries from the subject fabric, regardless of the source of the fabric, would likely have no effect on U.S. producers of fabric, because there is no known domestic production of the subject fabric. Furthermore, it is not likely that the U.S. textile firms that reportedly have the technical capacity to produce the subject fabric would receive orders from U.S. apparel producers because of their competitive disadvantage in terms of price compared with imports of the subject fabric from Asia. Although there is U.S. production of the type of yarn used in the fabric, since there is no known current U.S. production of the subject fabric from the yarn, there would likely be no adverse effect on U.S. producers of the yarn.

The proposed preferential treatment would likely have little or no effect on U.S. producers of apparel containing the subject fabric, and on their employees. Any increase in imports would likely displace U.S.

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[29] ***, telephone interview by Commission staff, Aug. 30, 2004.

[30] ***, email to Commission staff, Aug. 23, 2004.

[31] ***, telephone interviews by Commission staff, Aug. 30, 2004 and Sept. 2, 2004.

[32] The Commission's advice is based on information currently available to the Commission.

imports from other countries because it is believed that the U.S. market for such apparel is small and supplied largely by imports. However, U.S. firms making apparel in eligible CBTPA countries and their U.S.-based workers would likely benefit from the proposed preferential treatment. The proposed preferential treatment also would likely benefit U.S. apparel retailers and their employees as well as U.S. consumers of apparel made from the subject fabric to the extent that importers pass on some of the duty savings to retail consumers.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-013

Products	**Apparel of fancy polyester-rayon suiting fabric**
Requesting Parties	**Fishman & Tobin, Inc., Conshohocken, PA**
Date of Commission Report	**September 14, 2004**
Commission Contact	**Robert W. Wallace (202-205-3458; robert.wallace@usitc.gov)**

NOTICE

Petition was withdrawn from consideration by the Committee for the Implementation of Textile Agreements.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-014

Products	**Apparel of fancy polyester filament fabric**
Requesting Parties	**Fishman & Tobin, Inc., Conshohocken, PA**
Date of Commission Report: USTR **Public**	**September 14, 2004** **September 2004**
Commission Contact	**Robert W. Wallace (202-205-3458; robert.wallace@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON SEPTEMBER 14, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible Caribbean Basin countries from certain polyester filament fabrics, regardless of the source of the fabrics, could have some adverse effect on U.S. textile producers and their workers. The proposed preferential treatment would likely have a negligible effect on U.S. apparel producers and their workers. Further, the proposed preferential treatment would likely benefit U.S. firms making the apparel in eligible countries, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

The Commission's advice in this report relates to a petition received by CITA on August 3, 2004, alleging that certain polyester filament fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA beneficiary countries from such fabric, regardless of the source of the fabric. The President is required to submit a report to the House Committee on Ways and Means and to the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action,

[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[2]

Discussion of the product

The petition states that the fabrics are classified in the Harmonized Tariff Schedule of the United States (HTS) under four statistical reporting numbers that provide for certain woven fabrics containing 85 percent or more by weight of textured polyester filaments, depending on fabric weight and whether the fabrics are dyed (5407.52.20.20 and 5407.52.20.60) or made of yarns of different colors (5407.53.20.20 and 5407.53.20.60). The fabrics named in the petition are wholly of polyester filaments and are used by the petitioner in boys' suits, which are classified in HTS chapter 62 (apparel, not knitted or crocheted) and are dutiable at 27.3 percent ad valorem in 2004.

The fabrics named in the petition are made in plain, twill, and satin weave patterns, and are either dyed in fabric form ("piece-dyed") or made from yarns of different colors.[3] The yarns used to make the fabrics are of different sizes (in combinations of 75, 100, 150, and 300 denier)[4] and are either 100-percent cationic yarns or different mixtures of cationic and disperse fibers (the mixtures, expressed as a percentage, are 25-75, 50-50, and 75-25).[5] For example, a fabric can be made of 75 denier cationic yarn and 150 denier disperse yarn. The petition states that two different colors can be used in one dye vat and each color will adhere to either a cationic or disperse yarn. It states that the use of such yarns results in the manufacture of high-quality "fancy" fabrics that have a highly distinctive look (e.g., heather and multicolor styles), with a variety of color and background effects that cannot be duplicated with the use of disperse yarns alone.

The petitioner, Fishman & Tobin, imports children's clothing either from its subsidiary in the Dominican Republic or from independent contractors in Guatemala and Nicaragua.[6] A trade report states that the firm "controls some 90 percent of the boys' dresswear market--offering suits, dress shirts, blazers and pants for the Claiborne, Van Heusen, Arrow and Sean John brands, as well as private label [***] programs."[7] Fishman & Tobin sources the subject fabrics from Taiwan ***. The petition states that Fishman & Tobin intended to purchase the subject fabrics in lots of 25,000 to 50,000 yards. According to Fishman & Tobin, ***."[8]

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[2] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[3] Information in the paragraph is from the petition filed with CITA on behalf of Fishman & Tobin by Sharretts, Paley, Carter & Blauvelt, P.C., July 29, 2004, and email correspondence with Fishman & Tobin and its counsel, Aug. 2004.

[4] Denier is a measure of the linear density, or weight per unit length, of a yarn. It indicates the weight, in grams, of 9,000 meters of yarn (the higher the denier number, the heavier or thicker the yarn). See U.S. Customs Service (now the Bureau of Customs and Border Protection, Department of Homeland Security), *Customs Bulletin and Decisions*, vol. 34, No. 52, Dec. 27, 2000, p. 114.

[5] Cationic dyes, or basic dyes, contain positively charged amino groups that are attracted to negative groups in fibers. The colors that these dyes produce are exceptionally bright; the dyes produce excellent color fastness in synthetics. Disperse dyes are almost insoluble in water; particles of dye disperse in the water without dissolving but, rather, dissolve in the fibers. See Phyllis G. Tortora and Billie J. Collier, *Understanding Textiles*, 5th ed. (Prentice-Hall, Inc., Upper Saddle River, NJ, 1997), p. 424.

[6] The petition states that the garments imported by Fishman & Tobin from the Dominican Republic are made by Minikin Togs, Inc., a subsidiary that has seven factories and two warehouses located in the Santiago Free Trade Zone.

[7] See "The Present: Offering a True Competitive Advantage," *DNR* (*Daily News Record*), Fairchild Publications, New York, NY, Aug. 9, 2004 (page 9 of a 19-page advertisement on the firm celebrating 90 years of being in business).

[8] Robert Granato, Vice President, Fabric Sourcing & Purchasing, Fishman & Tobin, email correspondence, Aug. 17, 2004.

Discussion of affected U.S. industries, workers, and consumers

Fabric producers

Fabrics of a kind named in the petition reportedly are made in the United States by Burlington, a division of International Textile Group (ITG), Greensboro, NC.[9] Burlington said it uses cationic-disperse yarns in about one-fourth of its polyester fabrics to create heather-style and multicolor fancy fabrics.[10] The firm said it makes the fabrics from cationic and disperse yarns in any combination of *** denier and mixtures of cationic-disperse yarns ***. For example, Burlington stated that it currently is weaving a fabric ***. The firm purchases the yarns from domestic fiber producers such as Invista and Unifi, weaves the fabrics in Richmond, NC, and finishes them in Hurt, VA. The firm stated that it weaves the fabrics to customer specifications, ***.

In a written statement to CITA of August 23, 2004, Milliken & Co., Spartanburg, SC, stated that it has the machinery, manpower, and desire to supply the U.S. and Caribbean Basin apparel industries with commercial quantities of the subject fabrics.[11] However, a Milliken official stated that the firm does not make the fabrics specified in the petition.[12] ***

Yarn producers

Unifi, Inc., Greensboro, NC, stated that its domestic production includes the capability to produce 100-percent polyester filament yarns of a kind used in the subject fabrics.[13] The firm indicated that it has the production capability to make 100-percent cationic textured yarns in 70, 100, 150, and 300 deniers; 50-50 cationic-disperse yarns in 150 and 300 deniers; and 25-75 and 75-25 cationic-disperse yarns in 300 denier. ***

Dillon Yarn Corp., Dillon, SC, states that it produces textured polyester filament yarn of a kind used in production of the subject fabrics.[14] ***

Apparel companies

Trade sources indicate that the U.S. market for boys' suits of fancy polyester fabrics is supplied mostly by imports. As noted above, the petitioner, Fishman & Tobin, which reportedly accounts for about 90 percent of the U.S. market for boys' dress clothing, currently manufactures or sources the garments abroad, such as in CBTPA countries. *** According to ***, a customer of Fishman & Tobin, the boys' suits made from the subject fabrics offer performance and value, which are important considerations in a consumer's purchasing decision for boys' apparel. ***[15]

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[9] The petition states that Fishman & Tobin received confirmation from four domestic mills (Milliken & Co., Texfi Industries, Burlington Worldwide, and Delta Mills Marketing) that they do not currently make the subject fabrics and have no plans to do so. In telephone interviews with Commission staff, Burlington stated that it makes fabrics of a kind named in the petition, while Milliken confirmed that it does not make the subject fabrics (see discussion on Burlington and Milliken later in this report). Texfi Industries is no longer in business; New River Industries purchased the "Texfi" name and made it into a marketing unit.

[10] Information on Burlington is from Joe Gorga, President and Chief Executive Officer, ITG, written submission to CITA, Aug. 19, 2004; ***, telephone interviews by Commission staff, Aug. and Sept. 2004.

[11] Ben Shoaf, President, Apparel & Specialty Fabrics Division, Milliken & Co., written submission to CITA, Aug. 23, 2004.

[12] ***, telephone interview by Commission staff, Sept. 3, 2004.

[13] Information in the paragraph is from Thomas H. Caudle, Jr., Vice President, Global Operations, Unifi, Inc., written submission to CITA, Aug. 23, 2004, ***, telephone interview by Commission staff, Aug. 20, 2004, and email correspondence, Sept. 3, 2004.

[14] Information in the paragraph is from Shawn Dougherty, Director, Strategy and Trade Affairs, Dillon Yarn Corp., Dillon, SC, written submission to CITA, Aug. 23, 2004, and telephone interview by Commission staff, Aug. 20, 2004. ***

[15] ***, interview by Commission staff, Sept. 7, 2004.

Views of interested parties

No written submissions were filed with the Commission.

Probable economic effect advice[16]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible CBTPA beneficiary countries from the subject fabrics, regardless of the source of the fabrics, could have some adverse effect on U.S. textile producers and their workers. Burlington states that it makes fancy polyester filament fabrics of a kind named in the petition from domestic yarns. The proposed preferential treatment could reduce demand for U.S.-made fancy polyester filament fabrics and, in turn, weaken demand for U.S.-made yarns used in such fabrics.

The proposed preferential treatment likely would have a negligible effect on U.S. apparel producers and their employees. Imports supply most of the U.S. market for boys' apparel made of the subject fabrics. The expected increase in imports of apparel made in eligible CBTPA countries from the subject fabrics would likely displace mostly imports from other countries, because U.S. production is likely for niche markets or quick response programs. The proposed preferential treatment would likely benefit U.S. firms making apparel in eligible CBTPA countries from the subject fabrics by increasing the supply and availability of such fabrics. The proposed preferential treatment also would likely benefit U.S. consumers of apparel made from the subject fabrics to the extent that importers pass on some of the duty savings to retail consumers. As noted above, the rate of duty on boys' manmade-fiber suits is 27.3 percent ad valorem.

[16] The Commission's advice is based on information currently available to the Commission.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-015

Products		**Apparel of Certain Cotton Flannel Fabrics**
Requesting Parties		**Picacho, S.A., La Libertad, El Salvador**
Date of Commission Report:	**USTR** **Public**	**August 25, 2004** **August 2004**
Commission Contact		**Heidi Colby (202-205-3391; heidi.colby@usitc.gov) or Kimberlie Freund (202-205-3458; kimberlie.freund@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON AUGUST 25, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

This report contains advice for two flannel fabrics contained in one petition. The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible Caribbean Basin countries from the two flannel fabrics subject to this review, regardless of the source of the fabrics, would likely have no adverse effect on U.S. fabric producers and their workers, because there is currently no known U.S. production of such fabrics. However, one U.S. producer asserted that it can produce the two subject fabrics as specified in the petitions. The proposed preferential treatment would likely have little or no effect on U.S. producers of apparel and their workers, but would likely benefit U.S. firms making the apparel in the Caribbean Basin and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

The Commission's advice in this report concerns a petition received by CITA on August 12, 2004, alleging that certain cotton flannel fabrics cannot be supplied by the domestic industry in commercial quantities in a

[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

timely manner.[2] The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA countries from such fabrics, regardless of the source of the fabrics. The President is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[3]

Discussion of the product

The two fabrics named in the petition are 100-percent cotton flannel fabrics for use in shirts, trousers, nightwear, robes and dressing gowns, and woven underwear classified in statistical reporting number 5209.31.60.50 of the Harmonized Tariff Schedule of the United States (HTS). The 2004 general rate of duty on the fabrics is 8.4 percent ad valorem. The apparel articles are classified in HTS chapter 62 (apparel, not knitted or crocheted), and the rates of duty range from 6.1 percent to 19.7 percent ad valorem.

The petitioner, Picacho, S.A., is a manufacturer of woven apparel located in El Salvador, and is in partnership with Ben Wachter Associates (BWA), a U.S. apparel company.[4] The flannel fabrics are a specific type of flannel called "chamois cloth" and are primarily used in shirts and pajamas. For each of the fabrics, the filling yarn is open-end spun yarn and the warp yarn is ring spun yarn. The petitioner indicated that "the warp yarns must be ring spun in order to provide the additional tensile strength required to offset the degrading effects of heavy napping on both sides" of the fabric, and the filling yarns must be open-end spun to impart the required loft and softness to the fabric. All of the fabrics are also napped on both sides (napping provides the fuzzy finish) and sanforized (to prevent shrinkage), but differ from each other by weight, finish, construction, and/or yarn size. The petitioner indicated that production of the subject fabrics requires specialized machinery for the napping process. The table below provides a complete list and description of the fabrics. The two fabrics are piece-dyed, or dyed after they have been woven into fabric, which generally results in a solid-color fabric.

[2] The two fabrics are very similar to the 12 cotton flannel fabrics described in 12 separate petitions filed with CITA on July 14, 2004 and July 30, 2004. See CITA notices, published in the *Federal Register* on Aug. 2, 2004, (69 F.R.46137) and Aug. 6, 2004 (69 F.R.47915). The 12 fabrics are the subject of USITC Inv. Nos. 332-458-009 (9 of the fabrics) and 332-458-010 (3 of the fabrics).

[3] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[4] Information in this paragraph is from the petitions and from Andrew Lerner, Ben Wachter Associates (BWA), telephone interview by Commission staff, Aug. 5, 2004.

Fabric specifications				
HTS statistical reporting numbers	**Finish[1]**	**Weight and Width[2]**	**Construction**	**Yarn number for the warp, filling, and overall average yarn number (AYN)[3]**
Fabric 1: 5209.31.60.50	Piece-dyed	291.5 g/m2; 160 cm	24.41 warp ends/cm; 16.53 filing picks/cm; total: 40.94 threads/cm2	Warp: 25.4 metric Filling: 10.16 metric AYN: 14.04 metric
Fabric 2: 5209.31.60.50	Piece-dyed	305 g/m2; 160 cm	24.41 warp ends/cm; 18.11 filling picks/cm; total: 42.52 threads/cm2	Warp: 25.4 metric Filling: 10.16 metric AYN: 13.95 metric

[1] In addition, all the fabrics must be napped on both sides and sanforized.
[2] All the widths are "cuttable" widths, useable for making the garments.
[3] For both fabrics, the warp yarn is ring spun, and the filling yarn is open-end spun.

Discussion of affected U.S. industries, workers, and consumers

The segments of the U.S. textile and apparel sector potentially affected by the proposed preferential treatment are U.S. fabric producers, yarn spinners and dyers, and apparel manufacturers.

Fabric producers

Commission staff contacted four firms believed to weave cotton flannel fabric in the United States for apparel: Dan River Inc., Danville, VA; Wade Manufacturing Co., Wadesboro, NC; Mount Vernon Mills,[5] Inc., Greenville, SC; and Cone Mills LLC, Greensboro, NC. ***.[6] ***[7]***.

***.[8] However, Wade indicated that, in looking at the distinct specifications required for each fabric (e.g., weight, thread count, number of picks, dyeing technique, yarn type, and napping), it has the capability to produce each of the fabrics in question in commercial quantities in a timely manner. *** Wade indicated it also can make the yarns listed in the petition. *** Wade noted that it can match the quality of the fabrics from Portugal. ***

Yarn producers

The Commission contacted two yarn producers that Wade Manufacturing indicated as possible suppliers of ring spun yarn for flannel fabrics: ***, and ***. ***[9]***.[10]

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[5] ***

[6] ***

[7] ***

[8] Information in this paragraph is from Bernard M. Hodges, President, Wade Manufacturing Co., telephone interview by Commission staff, Aug. 9, 2004.

[9] ***, telephone interview by Commission staff, Aug. 12, 2004.

[10] ***, telephone interview by Commission staff, Aug. 12, 2004.

Apparel companies

The Commission contacted BWA, a U.S.-based apparel company that is partnering with the petitioner. BWA indicated that it designs the garments made with the subject fabrics, conducts the merchandising and sales out its New York City offices, and manufactures the garments in partnership with Picacho, S.A. in El Salvador.[11] BWA stated that the fabrics used by the petitioner are from Portugal, the highest quality supplier of such fabrics. ***.

According to *** U.S. retailer, it had sourced its chamois-cloth fabric from Cone Mills, but Cone Mills stopped producing these fabrics.[12] *** stated that it is very difficult to produce chamois cloth fabric because of its complexity. It indicated that the U.S. industry is no longer making the fabrics that are the subject of the petitions. ***.[13]

[14].

Views of interested parties

No written submissions were filed with the Commission.

Probable economic effect advice[15]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible CBTPA beneficiary countries from the subject fabrics, regardless of the source of the fabrics, would likely have no adverse effect on U.S. producers of yarn or fabric, or their workers, because there is no known domestic production of the subject fabric or of the yarn used in the fabric. One U.S. producer, Wade Manufacturing, stated that it has the ability and capacity to produce the subject fabrics.

The proposed preferential treatment would likely have little or no effect on U.S. producers of apparel and their workers because any increase in imports would likely displace U.S. imports from other countries rather than U.S. production. However, U.S. firms making apparel in eligible CBTPA countries and their U.S.-based workers would likely benefit from the proposed preferential treatment. U.S. consumers of apparel made from the subject fabric would likely benefit from the proposed preferential treatment to the extent that importers pass on some of the duty savings to retail consumers.

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[11] Information in this paragraph is from Andrew Lerner, Ben Wachter Associates (BWA), telephone interview by Commission staff, Aug. 5, 2004.

[12] Information in this paragraph is from ***, telephone interview by Commission staff, Aug. 10, 2004.

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[14] Information in this paragraph is from ***, telephone interview by Commission staff, Aug. 9, 2004.

[15] The Commission's advice is based on information currently available to the Commission.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-016

Products	**Women's and children's apparel of polyester monofilament yarn**
Requesting Parties	**Textiles Erre Emme Ltda., Bogota, Colombia**
Date of Commission Report: USTR Public	**October 4, 2004 October 2004**
Commission Contact	**Vincent DeSapio (202-205-3435; vincent.desapio@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON OCTOBER 4, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible Andean countries from certain polyester monofilament yarn, regardless of the source of the yarn, could have an adverse effect on U.S. producers of the subject yarn, U.S. producers of fabrics made from the subject yarn, and their workers. The proposed preferential treatment would have no effect on U.S. apparel producers because there is no known domestic production of apparel containing the yarn. Further, the proposed preferential treatment would likely benefit U.S. firms making apparel in eligible Andean countries from the yarn, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

The Commission's advice in this report relates to a petition received by CITA on August 23, 2004, alleging that certain polyester monofilament yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel woven or knitted in eligible Andean countries from such yarn, regardless of the source of the

[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

yarn. The President is required to submit a report to the House Committee on Ways and Means and to the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[2]

Discussion of the product

The petition states that the subject yarn is classified in subheading 5402.33.30 of the Harmonized Tariff Schedule of the United States (HTS), which provides for textured filament single yarn of polyester (other than sewing thread), not put up for retail sale, including polyester monofilament of less than 67 decitex. The petition describes the subject yarn as a polyester monofilament textured, raw, white yarn, of denier 20D/F1 (22 decitex),[3] semi-dull for weaving, for use in women's and children's apparel. Industry sources note that the subject yarn is often used to make knitted or woven fabrics for nightwear and loungewear, which are classified in HTS chapter 61 (apparel, knitted or crocheted) or chapter 62 (apparel, not knitted or crocheted). The 2004 rates of duty on women's and children's apparel made of the subject yarn vary by product (the duty rate on nightwear is 16 percent ad valorem).

Industry sources contend that the yarn named in the petition (20 denier polyester filament yarn) is not typically textured and woven in monofilament form.[4] The sources noted that, normally, a monofilament is twisted with another before undergoing texturizing and weaving.[5]

The petition filed by Textiles Erre Emme Ltda. of Bogota, Colombia, stated that the firm sent a letter to numerous U.S.-based textile trade associations as well as U.S.-based textile companies, asking the companies if they produce the subject yarn. According to the petition, the few companies responding to the petitioner's letter each stated that it does not produce the subject yarn.

Discussion of affected U.S. industries, workers, and consumers

Industry sources stated that the subject yarn is produced in the United States by Brawer Bros., Inc., Hawthorne, NJ, and Guilford Mills, Inc., Greensboro, NC.[6] According to its website, Guilford is the largest supplier of polyester monofilament yarns to the textile industry.[7] According to the petition, Brawer Bros. was not among the U.S. textile firms that received the above-referenced letter from the petitioner. The petition states that the letter was sent to Guilford Fibers; however, the petition does not state whether it received a reply from the firm.

Yarn producers

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[2] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[3] The term "20D/F1" refers to a yarn of 20 denier and of 1 filament. Denier is a measure of the linear density, or weight per unit length, of a yarn--that is, the weight, in grams, of 9,000 meters of yarn (the higher the number, the heavier the yarn). The conversion from denier to decitex is "denier x 1.1111" (decitex is the weight, in grams, of 10,000 meters of yarn).

[4] Michael S. Hubbard, Vice President of Administration, National Council of Textile Organizations (NCTO), written submission to CITA, Sept. 10, 2004, ***, telephone interview by Commission staff, Sept. 2004.

[5] Textured yarns are normally filament yarns of HTS chapter 54, in which the component filaments have been crimped (i.e., a regular pattern of wrinkles has been imparted to the filaments) to create a softer look and feel. See U.S. Customs Service (now the Bureau of Customs and Border Protection, Department of Homeland Security), *Customs Bulletin and Decisions*, vol. 34, No. 52, Dec. 27, 2000, p. 120.

[6] ***, telephone interviews by Commission staff, Sept. 2004.

[7] The website of Guilford Mills is *http://guilfordproducts.com.*

*** [8] [9]

*** [10]

Fabric producers

Commission staff identified two firms that use the subject yarn in the production of knit apparel fabrics: Fab Industries, Inc., New York, NY, and Glen Raven Mills, Inc., Glen Raven, NC. Fab Industries said it uses the yarn in the production of warp and circular knit fabrics at its mill in Lincolnton, NC, and sells the fabrics to manufacturers of intimate apparel and sleepwear. Glen Raven Mills stated that it uses the yarn *** to make knit fabrics at its mill in Glen Raven, NC. *** According to both firms, loungewear-type garments made from knitted fabrics of the subject yarn compete in the marketplace with loungewear-type goods made from woven fabrics of the subject yarn.

Apparel companies

Officials of *** stated that they are unaware of any firms that make apparel in the United States from knitted or woven fabrics of the subject yarn, but indicated that there are numerous U.S.-based firms making such apparel in the Caribbean Basin.[11] An official of the American Apparel & Footwear Association (AAFA), Arlington, VA, a trade association representing U.S. apparel and footwear companies, indicated general support for petitions of this nature because approval of certain petitions may result in the use of some U.S.-sourced components in offshore assembly operations. The AAFA official also noted that many AAFA member companies produce apparel in ATPDEA-designated countries and, hence, may benefit from the proposed preferential treatment.[12]

Views of interested parties

The Commission received a written submission from ***, which states that it is a leading U.S. producer of polyester monofilament yarn.[13] The firm said it produces large quantities of both the subject yarn as well as yarn that is like that described in the petition. According to the firm, the proposed preferential treatment, if granted, would have a negative impact on the firm's operations, financial performance, and employment in view of the following:

- *** employees directly involved in the manufacture of monofilament yarn would be in jeopardy and an additional *** employees involved in the manufacture of other yarns at the *** mill could be in jeopardy;
- salaries, wages, and benefits total $*** for the *** employees and $*** for the additional *** employees;
- at the very least, the jobs of the *** employees involved in production of monofilament yarn would definitely be at risk and, at the most, the viability of the mill, and *** as a company, could be in jeopardy should *** be forced to cease production of monofilament yarn;

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[8] ***, telephone interview by Commission staff, Sept. 8, 2004.
[9] ***, telephone interview by Commission staff, Sept. 8, 2004.
[10] ***, telephone interview by Commission staff, Sept. 9, 2004.
[11] ***, telephone interviews by Commission staff, Sept. 17 and 20, 2004.
[12] ***, telephone interview by Commission staff, Sept. 8, 2004.
[13] ***, written submission to the Commission, Sept. 17, 2004.

- *** production of monofilament yarn peaked in the 1990s at *** pounds per year and, due to declines in demand for apparel made from the yarn, production has now declined to approximately *** pounds per year and will decline even further if replaced by imports;

- for every pound of monofilament yarn that is lost to imports, *** loses $***, so an additional 1 million pounds in business lost to imports would amount to an additional $*** in lost revenue; and

- employment in the communities surrounding *** have already suffered due to plant closures and layoffs resulting from import competition, thus should *** employees lose their jobs, they will likely encounter great hardships locating jobs in the area with their skill-sets at comparable wages and benefits.

Probable economic effect advice[14]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible Andean countries from the subject yarn, regardless of the source of the yarn, could have an adverse effect on U.S. producers of the subject yarn, U.S. producers of fabrics made from such yarn, and their workers. The subject yarn is produced domestically ***, and at least two firms make apparel fabrics in the United States from the subject domestic yarn.

The proposed preferential treatment would likely have no effect on the U.S. apparel industry because there is no known domestic production of apparel that contains the subject yarn. U.S. apparel companies reportedly purchase fabrics made in the United States from the subject domestic yarn and cut and sew them in the Caribbean Basin (CBTPA preferences apply to U.S. imports of apparel made in eligible Caribbean Basin countries from U.S. fabrics and yarns). The expected increase in imports of apparel made in eligible Andean countries from the subject yarn would likely displace imports from other countries, particularly countries in Asia and possibly those in the Caribbean Basin that use U.S.-made fabrics and yarns, which tend to cost more than similar inputs from Asia. The proposed preferential treatment would likely benefit U.S. firms making apparel in eligible Andean countries from the subject yarn by increasing the supply and availability of such yarn. The proposed preferential treatment also would likely benefit U.S. consumers of apparel made from the subject yarns to the extent that importers pass on some of the duty savings to retail consumers.

[14] The Commission's advice is based on information currently available to the Commission.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-017

Products	**Apparel of fancy polyester-rayon suiting fabrics**
Requesting Parties	**Fishman & Tobin, Inc., Conshohocken, PA**
Date of Commission Report: USTR Public	**October 4, 2004 October 2004**
Commission Contact	**Jackie W. Jones (202-205-3466; jackie.jones@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON OCTOBER 4, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's advice in this report relates to fancy polyester-rayon suiting fabrics named in two separate petitions filed concurrently by Fishman & Tobin, Inc. The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. apparel imports from eligible Caribbean Basin countries containing the fancy polyester-rayon suiting fabrics named in both petitions, regardless of the source of the fabrics, would likely have a negligible adverse effect on U.S. fiber, yarn, and fabric producers and their workers, because there currently is no known domestic production of the subject fabrics and the inputs going into the manufacture of these fabrics. An official of a U.S. fabric producer stated that it plans to produce and market a line of polyester-rayon suiting fabrics for fall 2005. However, information available to the Commission suggests that this line of suiting fabrics may differ from the subject fabrics in terms of the raw materials used and, in turn, the inherent properties of the fabrics. The proposed action would likely benefit U.S. firms making apparel in eligible countries from the subject fabrics, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

The Commission's advice in this report relates to two petitions received by CITA on August 24, 2004, each alleging that certain fancy polyester-rayon suiting fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA beneficiary countries from such fabric, regardless of the source of the fabric. The President is required to submit a report to the House Committee on Ways and Means and to the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[2]

Discussion of the product

The two petitions state that both of the subject fabrics are classified in subheading 5515.11.00 (statistical reporting number 5515.11.0005) of the Harmonized Tariff Schedule of the United States (HTS), which covers woven fabrics of polyester staple fibers mixed mainly or solely with viscose rayon staple fibers, of yarns of different colors (other than blue denim or jacquard weave). The petitions describe the fabrics as fancy polyester-rayon blend suiting fabrics, comprising by weight 65 percent polyester and 35 percent rayon staple fibers, of yarns of different colors. The subject fabrics are used by the petitioner in the production of boys' and young men's suits and tailored pants. The 2004 rates of duty on such garments, classified in HTS chapter 62 (apparel, not knitted or crocheted), are 27.3 and 27.9 percent ad valorem, respectively.

The fabrics named in the petition are made of two-ply combed or carded [3] and ring spun yarns in the warp and the filling,[4] and in 58-59 inch widths.[5] The fancy colored yarns are made from dyed fibers (not yarn-dyed) which allow for unique combinations of multi-colored fancy fabrics.[6] The warp and filling yarns are 2-ply 30s and 40s singles yarns and the fabric weight ranges from approximately 260 to 310 grams per yard. The fabrics named in the two petitions differ primarily by the type of yarn used in their production. One petition covers fabric made from "combed" yarns spun on the worsted system and, for purposes of this report, will be referred to as fabric 1; while the other petition covers fabric made from "carded" yarns spun on the synthetic system, and for purposes of this report, will be referred to as fabric 2. The petitions indicate that although the two fabrics are made from yarns spun on two different systems, the fabrics are identical in appearance, specification, and performance. However, the petitioner stated that there may be some difference in the "hand" or feel of the fabrics. For example, fabric 1, made of combed yarns rather than carded yarns may have a softer feel. In addition, the petitions indicate that the superior colors and characteristics of the fabrics are of a higher quality than any fabrics currently produced in the United States. Fabric made on the worsted system or with combed yarns is generally more expensive than fabric

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[2] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[3] Staple fibers go through the carding process and, to be further refined, through the combing process. The carding process disentangles the fibers to prepare them for spinning, and is done by passing the fibers between rollers covered with fine wire teeth. This step produces a loose, untwisted, rope-like "sliver," ready for spinning. The combing process would take place after the carding process and removes any remaining shorter fibers and further aligns the longer ones to produce "tops," a smoother, more uniform sliver suitable for spinning under the worsted system. See U.S. Customs Service, "Fibers and Yarns: Construction and Classification Under the HTSUS," *Customs Bulletin and Decisions*, vol. 34, No. 52, Dec. 27, 2000, p. 127.

[4] Warp ends run lengthwise on the loom and in the fabric, while filling yarns, also known as picks, run across the width of the loom and the fabric.

[5] Information in this paragraph is from the petitions filed with CITA on behalf of Fishman & Tobin by Sharretts, Paley, Carter & Blauvelt, P.C., Aug. 24, 2004; and from telephone interviews and e-mail correspondence with Robert Granato, Vice-President of Fabric Sourcing and Purchasing, Fishman & Tobin, and Commission staff, Sept. 13, 15, 16, and 20, 2004.

[6] Manmade or synthetic fibers may be dyed in the solution from which the fibers are formed, (these are solution dyed); or in the form of loose fibers, (stock dyed); or after the fibers have been spun into yarn, (yarn dyed).

made on the synthetic system or with carded yarns, as more production processes are involved in the production of combed yarn.

The petitions use the term "fancy" to refer to multi-color or multi-surface fabrics that are made with a pattern or design either by using different colors in one style of fabric or by using different weaves.[7] According to an official of the petitioner, approximately *** percent of the subject fabrics Fishman & Tobin refers to as a "fancy" are multi-color fabrics. For example, a "fancy" fabric may be a plain or twill weave in a navy, charcoal gray, or olive background with contrasting stripes or it may be woven with a small check design or a plaid. ***

The petitioner, Fishman & Tobin, imports children's clothing either from its subsidiary in the Dominican Republic or from independent contractors in Guatemala and Nicaragua.[8] A trade report states that the firm "controls some 90 percent of the boys' dresswear market--offering suits, dress shirts, blazers and pants for the Claiborne, Van Heusen, Arrow, and Sean John brands, as well as private label *** programs."[9] Fishman & Tobin sources both types of the fancy polyester-rayon suiting fabrics from India ***. Fishman & Tobin purchases the subject fabrics ***[10]***

Fishman & Tobin ***[11]***

Discussion of affected U.S. industries, workers, and consumers[12]

Information available to the Commission shows that there is currently no known domestic production of the subject fabrics. However, a representative of the Burlington division of the International Textile Group (ITG) stated that the company was developing a line of polyester-rayon blended fabrics which Burlington stated could be used by the petitioner in the production of boys' suits. *** (there is only one U.S. producer of rayon staple fibers and these fibers are not fiber-dyed). Officials for ***[13] Commission staff also spoke with five U.S. yarn producers which staff believed might produce yarns used to produce the subject fabrics. An official for one of the yarn producers, *** stated that it did not produce the yarns. An official for ***. An official for *** Commission staff also spoke with the only U.S. producer of rayon staple fibers, which does not produce fiber-dyed rayon staple.

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[7] Information in this paragraph is from Robert Granato, Fishman & Tobin, telephone interview by Commission staff, Sept. 15, 2004.

[8] The petition states that the garments imported by Fishman & Tobin from the Dominican Republic are made by Minikin Togs, Inc., which has seven factories and two warehouses located in the Santiago Free Trade Zone.

[9] See "The Present: Offering a True Competitive Advantage," *DNR* (*Daily News Record*), Fairchild Publications, New York, NY, Aug. 9, 2004 (page 9 of a 19-page advertisement on the firm celebrating 90 years of being in business).

[10] ***

[11] Information in this paragraph is from telephone interviews and e-mail correspondence between Robert Granato, Fishman & Tobin, and Commission staff, Sept. 15, 16, and 20, 2004.

[12] In general, the manufacturing progression for the fabrics which are the subject of the two petitions is: (1) fibers are processed or spun into yarns, (2) yarns are woven into fabrics, (3) fabrics are cut into components, and (4) components are sewn into finished goods.

[13] *** *** does not produce apparel fabrics, only upholstery and other home furnishing fabrics.

Fabric producers

Officials of the Burlington division of the ITG stated that the division is developing a line of polyester-rayon fabrics using production methods similar to those used to produce the subject fabrics, with the intention of marketing this line of fabrics for fall 2005.[14] ***[15]

Information available to the Commission suggests that these fabrics may differ from the subject fabrics since the fabrics developed by Burlington will be produced using some raw materials different from the subject fabrics. *** In addition, ***[16]

An official of Schneider Mills stated that the ***[17]***. Schneider Mills produces primarily fabrics of synthetic fibers–nylon and polyester–and uses such products as linings for the U.S. military and industrial textiles.

An official of Delta Mills, New York, NY, stated that ***[18]***

An official from ***[19]

Fiber producers

There is only one producer of rayon staple fiber in the United States--Liberty Fibers, Lowland, TN.[20] However, Liberty Fibers only produces rayon staple fibers in natural white, and does not produce fiber-dyed rayon staple. According to an official of Liberty Fibers, the vast majority of what the company produces is short staple rayon fibers; that is, fibers which are less than 2 inches long. The company is capable of producing long staple rayon fibers of a heavier denier, up to 4 inches long, and it does produce a minimal amount of these fibers. ***

Yarn producers

An official of Carolina Mills, Maiden, NC, stated that it does not produce the yarns used to produce the subject fabrics; and ***[21]***

An official for Brodnax Mills, a domestic producer of specialty made-to-order yarns, stated that it ***[22]

An official of Pharr Yarns, a domestic producer of specialty made-to-order yarns of manmade fibers, stated that it is currently not producing the subject 65 percent polyester/35 percent rayon yarns.[23] However, this official indicated that the mill has the capacity to produce such a yarn and could do so if it received an order. ***

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[14] Information in this paragraph is from the ITG Burlington Division submission to the Commission regarding Investigation No. 332-458-017, Apparel of Fancy Polyester-Rayon Suiting Fabrics, Sept. 14, 2004, and from a telephone interview with *** [15] ***

[16] *** telephone interview by Commission staff, Sept. 13 and 20, 2004.

[17] Information in this paragraph is from a telephone interview with ***, by Commission staff, Sept. 16, 2004.

[18] Information in this paragraph is from a telephone interview with ***, by Commission staff, Sept. 14, 2004.

[19] ***, telephone interview by Commission staff, Sept. 22, 2004.

[20] Information in this paragraph is from Liberty Fibers' website, *http://www.lenzingfibers.com/products.htm*; and ***, telephone interview by Commission staff, Sept. 24 and 28, 2004.

[21] ***, telephone interviews by Commission staff, Sept. 16, 2004.

[22] *** telephone interview by Commission staff, Sept. 21, 2004.

[23] Bill Carstarphen, Senior Vice-President, Pharr Yarns, Inc., McAdenville, NC, telephone interview by Commission staff, Sept. 28, 2004.

An official of Tuscarora Yarns, Inc., a U.S. specialty yarn producer that also produces on a made-to-order basis, stated that although it is not currently producing the subject yarns used in the production of the subject fabric, it has the capability to dye rayon staple fibers and produce the subject yarns, and has done so in the past.[24] ***

Views of interested parties

The International Textile Group on behalf of its Burlington division opposes both petitions filed by Fishman & Tobin. In its submission opposing a short supply designation for the fancy polyester-rayon suiting fabrics made of yarns produced on the synthetic system, fabric 2, ITG states that it is developing a U.S.-made line of polyester-rayon suiting fabrics that will be produced in a manner similar to the production of the subject fabrics. ITG states that this line of fabrics is to be marketed for the fall 2005 season. ITG states that one of the company's goals is to supply quality innovative fabrics that could be used in apparel production in the Caribbean Basin countries, Mexico, and the United States. The submission questions the definition of the term "fancy," asking whether if a short supply designation is granted, would a solid color 65/35 polyester rayon twill fabric of suit weight be considered a "fancy." Burlington produces such fabrics.

In ITG's second submission, also on behalf of their Burlington division, it opposes designation of the subject fabric made of yarns spun on the worsted system. ITG questions whether the Customs Service (Customs and Border Protection) would be able to differentiate the subject fabrics made from yarns spun on the synthetic system from the subject fabrics made of yarns spun on the worsted system. ITG states that its Burlington division has the capability, including the equipment, to produce fabrics with yarns spun on the worsted system. However, the submission asserts that producing the fabrics on the worsted system would be more expensive than producing the subject fabrics on the synthetic system. ITG also questions the definition of "fancy" as it did in its first submission discussed above.

Probable economic effect advice[25]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible CBTPA beneficiary countries from the fancy polyester-rayon suiting fabrics named in both petitions, regardless of the source of such fabrics, could have a negligible adverse effect on U.S. fabric, yarn, and fiber producers and their workers. The information available to the Commission indicates that there is currently no known U.S. production of the subject fabrics. An official of the Burlington division of ITG stated that the firm plans to produce and market a line of polyester-rayon suiting fabrics for fall 2005. However, information available to the Commission suggests that the Burlington fabrics may differ from the subject fabrics in terms of the manufacture of their raw materials and, in turn, their inherent properties and, therefore, are not likely to be substitutes for the subject fabrics.

Information available to the Commission indicates that there currently is no known domestic production of key inputs used to produce the subject fabrics. For example, there is no current production of fiber-dyed rayon staple. There is only one U.S. firm that produces rayon staple fiber domestically, but it is not fiber dyed ***
The Commission identified ***.

The proposed preferential treatment likely would have a negligible effect on U.S. apparel producers, and their employees. Imports supply most of the domestic market for apparel made from the subject fabrics.

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[24] Peter Hegarty, President, Tuscarora Yarns, Inc., Mount Pleasant, NC, telephone interview by Commission staff, Sept. 28, 2004.

[25] The Commission's advice is based on information currently available to the Commission.

The expected increase in imports of apparel made in eligible CBTPA countries from the subject fabrics would likely displace mostly imports coming primarily from Asia, because any U.S. and NAFTA production is likely for niche markets or quick response programs. The proposed preferential treatment would likely benefit U.S. firms and their workers making such apparel in eligible CBTPA countries from the subject fabrics by increasing the supply and availability of the fabrics. The proposed preferential treatment also would likely benefit U.S. consumers of apparel made from the subject fabrics to the extent that importers pass on some of the duty savings to retail consumers. As noted above, the rate of duty on boys' suits and tailored trousers of synthetic fibers is 27.3 and 27.9 percent ad valorem, respectively.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-018

Products	**Women's and girls' nightwear of circular single-knit jersey fabric**
Requesting Parties	**Jaclyn, Inc., New York, NY**
Date of Commission Report: USTR Public	**October 12, 2004 October 13, 2004**
Commission Contact	**Brian Allen (202-708-4728; brian.allen@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON OCTOBER 12, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports from eligible Caribbean Basin countries of women's and girls' nightwear containing certain circular single-knit jersey fabric, regardless of the source of the fabric, would likely have no effect on U.S. fiber, yarn, and fabric producers and their workers because there is no known domestic production of the subject fabric. There are also no known U.S. producers of the subject apparel. Therefore, the proposed preferential treatment would likely have no effect on any U.S. producers of women's and girls' knit nightwear and their workers. Further, the proposed action would likely benefit U.S. firms making apparel in eligible countries from the subject fabric, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). This investigation provides advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

The Commission's advice in this report relates to a petition received by CITA on August 31, 2004, alleging that certain circular single-knit jersey fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA beneficiary countries from such fabric, regardless of the source of the fabric. The President is required to submit a report to the House Committee on Ways and Means and to

[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm.*

the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[2]

Discussion of the product

The petition states that the jersey fabric is classified in subheading 6006.32.00 (statistical reporting number 6006.32.0080) of the Harmonized Tariff Schedule of the United States (HTS), as a dyed, knitted or crocheted fabric of synthetic fibers, not of double-knit or interlock construction. The general rate of duty on such fabric is 10 percent ad valorem.

The petition states that the jersey fabric will be used to make women's and girls' two-piece pajamas and nightdresses (hereinafter referred to as nightwear). These items are classifiable under subheading 6108.32.00 (statistical reporting numbers 6108.32.0010 and 6108.32.0025)[3] of the HTS and dutiable at the general rate of 16 percent ad valorem in 2004.

The petition describes the fabric as a piece-dyed single-knit jersey fabric with a jacquard geometric rib stitch.[4] The subject fabric consists of 64 percent polyester, 34 percent cotton, and 2 percent spandex by weight. The fabric is made of spun yarn with a filament core. The yarn size is 54.14 metric (32/1 English). The petition states that the fabric's stretch characteristics are 45 percent from a relaxed state and 95 percent recovery to a relaxed state. The petition also states that the fabric must be knit on a jacquard machine in order to provide the "unique and complex geometric pattern and puckered effect."

The petitioner, Jaclyn, Inc., states that this fabric is "very lightweight" and "semi-transparent" and is a newer fabric that has not been available previously in the U.S. market and not available previously with the fabric's specific "type" of puckering. As the fabric will be used for women's and girls' nightwear, Jaclyn states that the "softness and hand feel" (hand) of the fabric are important to its commercially successful use.[5]

Jaclyn sources the fabric from ***[6] and in 2004 plans to use *** of the fabric. *** sends the fabric to ***, which manufactures the nightwear.[7] The petitioner's web site states that Jaclyn Apparel, a division of Jaclyn, Inc., provides sleepwear to department stores, mid-tier retailers, and national chains.[8] Jaclyn states that the nightwear at issue will be sold ***.[9]

The composition of the yarn used to knit the fabric appears to be the defining characteristic that meets the petitioner's stated needs for this fabric. Jaclyn states that it "experimented" at the factory with different weights and fiber content mixtures in spinning the yarn and determined that this blended yarn (64 percent

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[2] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[3] Commission staff believes that the goods in question represent only a small percentage of the total imports under the category in question.

[4] Information in the paragraph is from the petition filed with CITA on behalf of Jaclyn, Inc., by Sandler, Travis & Rosenberg, P.A., Aug. 30, 2004.

[5] Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), telephone interview by Commission staff, Sept. 14, 2004.

[6] Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), e-mail to Commission staff, Sept. 25, 2004.

[7] Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), telephone interview by Commission staff, Sept. 14, 2004. ***. Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), telephone interview by Commission staff, Oct. 5, 2004.

[8] See *http://jaclyninc.com/jaclyn-apparel.html.*

[9] Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), telephone interview by Commission staff, Sept. 14, 2004.

polyester/32 percent cotton/2 percent spandex) when knitted into fabric on a 24-gauge machine was "best" for Jaclyn and its customer.[10]

Discussion of affected U.S. industries, workers, and consumers[11]

All of the U.S. knitting mills that the petition indicated were contacted by the petitioner were also contacted by Commission staff.[12] Jaclyn stated that the mills contacted all responded that they did not have the "very specialized machinery" required to make the puckered fabric.[13] ***.[14] ***.[15] ***.[16] ***. Additionally, ***.[17]

Commission staff located no U.S. companies that manufactured women's and girls' nightwear of this fabric domestically.[18]

Jaclyn stated that *** for these pajamas and nightdresses of this fabric.[19]

Views of interested parties

No written submissions were filed with the Commission.

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[10] Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), telephone interview by Commission staff, Sept. 17, 2004. A yarn composition different from the one that Jaclyn has created would reportedly have a different hand and a different weight. For example, decreasing the polyester content from Jaclyn's 64 percent to 60 percent (a more common percentage in the U.S. fabric industry) would allegedly result in a different hand for the fabric. Similarly, decreasing or increasing the spandex content would affect the fabric's stretching characteristics. Further, a different composition for this fabric would result in a heavier or lighter yarn, which would affect the weight of the final knitted fabric.

Jaclyn stated that use of a 24-gauge knitting machine is crucial for this fabric because, in its experiments, Jaclyn determined that 24-gauge fabric is the most "efficient" and produces the least amount of waste fabric during the manufacturing process. *Ibid.* The term "24-gauge" refers to the number of metal needles per inch affixed to the knitting cylinder. Machines using 24-gauge cylinders produce fabric that is denser than machines using 18-gauge cylinders but less dense than machines using 28-gauge cylinders. Denser fabric is also heavier than less dense fabric, a characteristic that, if not desired, can be alleviated by using lighter yarns, which can be created by changing the composition of the yarn. As noted, Jaclyn states that the composition of the yarn is important to the softness and hand of their desired fabric.

[11] In general, the manufacturing progression for textiles is: (1) fibers are processed into yarns, (2) yarns are made into fabrics, (3) fabrics are cut into components, and (4) components are sewn into finished goods.

[12] The National Council of Textile Organizations and the National Textile Association were contacted for information on other potential U.S. knitting mills that might produce this fabric. Jim Schollaert, American Manufacturing Trade Action Coalition, and Mike Hubbard, National Council of Textile Organizations, telephone interviews by Commission staff, Sept. 15, 2004.

[13] Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), telephone interview by Commission staff, Sept. 14, 2004. Counsel for the petitioner stated that 24-gauge knitting machinery is manufactured primarily in Japan and is not prevalent in U.S. companies, which have purchased most of their knitting machinery from Europe, where 18-gauge and 28-gauge knitting machinery manufacturing predominate. (Commission staff also received a comment about the use of 32-gauge knitting machinery in the United States.) Changing the cylinders and some other parts on the knitting machines would transform a machine from one size gauge to another, but that operation would result in companies incurring equipment expenses (different size gauge cylinders) and losing productivity as the machines being altered sit idle. Charles Bremer, Sandler, Travis & Rosenberg, interview by Commission staff, Sept. 16, 2004.

[14] ***.

[15] ***.

[16] ***.

[17] ***.

[18] A representative of the American Apparel and Footwear Association (AAFA) stated that there would be very few, if any, U.S. manufacturers of nightwear. Steve Lamar, AAFA, telephone interview by Commission staff, Sept. 27, 2004. Commission staff also attempted to contact a representative of Sara Lee Knit Products for this information. The petitioner also stated that they knew of no U.S. manufacturers of nightwear. Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), e-mail, Sept. 25, 2004.

[19] Commission staff was unable to contact representatives of *** for comments.

Probable economic effect advice[20]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports from eligible CBTPA beneficiary countries of apparel containing the subject jersey fabric, regardless of the source of the fabric, would likely have no effect on U.S. fiber, yarn, and fabric producers and their workers as there is no known domestic production of the subject fabrics. In addition, because of the specific fabric properties—specific size, light weight, and soft hand—required by the customer, information available to the Commission indicates that there is no domestic production of jersey fabric that could be substitutable for the subject fabric.

Based on information available to Commission staff, the proposed preferential treatment likely would have no effect on U.S. apparel producers and their employees because there are no known U.S. producers of the subject apparel. Imports supply most of the domestic market for women's and girls' nightwear.[21] The expected increase in imports of apparel made in eligible CBTPA countries from the subject jersey fabric would likely displace mostly imports from other countries because consumers would choose this nightwear material over another type. The proposed preferential treatment would likely benefit U.S. firms making apparel in eligible CBTPA countries with the subject jersey fabric by increasing the supply and availability of such fabrics. The proposed preferential treatment also would likely benefit U.S. consumers of apparel made from the subject fabric to the extent that importers pass on some of the duty savings to retail consumers.

[20] The Commission's advice is based on information currently available to the Commission.

[21] Steve Lamar, AAFA, telephone interview by Commission staff, Sept. 27, 2004.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-019

Products	**Apparel of twill rayon-nylon-spandex warp stretch fabrics**
Requesting Parties	**Mast Industries, Inc.**
Date of Commission Report	**October 12, 2004**
Commission Contact	**Laura Rodriguez (202-205-3499; laura.rodriguez@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO THE UNITED STATES TRADE REPRESENTATIVE ON OCTOBER 12, 2004. ALL CONFIDENTIAL BUSINESS INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (* * *).

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible Caribbean Basin countries from certain twill warp stretch fabric, regardless of the source of the fabric, would likely have a slight adverse effect on U.S. fabric producers and their workers and a negligible adverse effect on U.S. fiber and yarn producers and their workers. Although there currently is no known domestic production of the subject fabric, one U.S. fabric mill stated that it has produced similar fabrics for the petitioner in the past and has the production equipment and capacity to make the fabrics. The proposed action would likely benefit U.S. firms making apparel in eligible countries from the subject fabric, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

The Commission's advice in this report relates to a petition received by CITA on August 31, 2004, alleging that certain twill stretch fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA beneficiary countries from such fabric, regardless of the source of the fabric.[2]

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[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm.*

[2] The President may proclaim such action if (1) he determines that the subject fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner; (2) he has obtained advice from the Commission and the appropriate advisory committee; (3) he has submitted a report, within 60 calendar days after the request, to the House

Discussion of the product

The petition states that the subject fabric is classified in subheading 5516.22.00 (statistical reporting number 5516.22.0040) of the Harmonized Tariff Schedule of the United States (HTS), which provides for dyed woven fabrics of artificial fibers, containing less than 85 percent by weight of artificial staple fibers, mixed mainly or solely with manmade filaments, in a satin weave or twill weave construction. The petition describes the subject fabric as a dyed 2 x 1 twill woven fabric of 77 percent staple rayon, 20 percent filament nylon, and 3 percent filament spandex. Apparel made from the fabric is classified in HTS chapter 62 (apparel, not knitted or crocheted). The petitioner uses the fabric in women's suits, suit-type jackets (e.g., blazers), pants, and skirts, for which the 2004 rates of duty range from 16 percent ad valorem (skirts) to 28.6 percent ad valorem (pants).[3]

The petition states that the fabric contains 39.4 warp ends and 29.9 filling picks per centimeter and weighs 245 grams per square meter.[4] The warp yarn, which contains the stretch, is composed of 70 denier nylon filament which is "gimped" or wrapped around a core of 40 denier monofilament spandex yarn. The filling yarn is 10/1 c.c. (English count) rayon staple.[5]

The subject fabrics are considered specialty fabrics made from specialized yarns and, according to the petition, result from manufacturing processes that involve specialized machinery (i.e., tensionless equipment) and complicated operations.[6] The spandex filament yarn (which has been wrapped by the nylon filament yarn) imparts the stretch to the fabric in the warp direction.[7] These nylon-spandex warp yarns are then threaded or placed on loom beams in a process known as "warping". The petition indicates that when a stretchable warp yarn or "a stretch product is being manufactured, the warping process requires specialized warping equipment that places each warp yarn in its place on the loom under controlled "relaxed" or tensionless conditions".[8] Furthermore, the petition states that the dyeing and finishing of a "warp stretch fabric" must be accomplished on tensionless equipment, which according to the petition, U.S. mills do not have.[9] According to the petition, fabrics that are not made "in the same exact fashion do not provide or exhibit the same characteristics as the subject fabric and thus are not viable substitutes."[10]

The petition states that the subject fabric is made in Taiwan and Korea, and is cut and sewn into apparel in Guatemala. The petitioner stated that its average purchase price for the subject fabric is $*** per yard

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Committee on Ways and Means and the Senate Committee on Finance, that sets forth the action proposed, the reasons for such action, and advice obtained; (4) a period of 60 calendar days, beginning with the day on which he has met the requirements of (3), has expired; and (5) he has consulted with such committees on the proposed action during the 60-day period referred to in (3). In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[3] ***, e-mail to Commission staff, Oct. 1, 2004.

[4] Warp yarns, also known as "ends", run lengthwise on the loom and in the fabric; while filling yarns, also known as "picks", run across the width of the loom and fabric.

[5] Information in the paragraph is from the petition filed with CITA on behalf of Mast Industries, Inc., by Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP, New York, NY, Aug. 31, 2004.

[6] Petition filed with CITA on behalf of Mast Industries, Inc., by Grunfeld, Desiderio, Lebowitz, Silverman, and Klestadt, LLP, Aug. 31, 2004, pp. 3-4.

[7] Industry sources noted that in most cases the spandex is used in the filling or crosswise direction. National Import Specialist, Alan Tytelman, at U.S. Customs and Border Prodtection, telephone interview by Commission staff, Sept. 28, 2004.

[8] Petition filed with CITA on behalf of Mast Industries, Inc., by Grunfeld, Desiderio, Lebowitz, Silverman, and Klestadt, LLP, Aug. 31, 2004, pp. 3-4.

[9] Ibid.

[10] Petition filed with CITA on behalf of Mast Industries, Inc., by Grunfeld, Desiderio, Lebowitz, Silverman, and Klestadt, LLP, Aug. 31, 2004, p. 4.

(c.i.f.).[11] Information available to the Commission indicates that, if the subject fabric were produced domestically, ***.[12] ***[13]

Discussion of affected U.S. industries, workers, and consumers[14]

Yarn producers

Commission staff contacted several yarn producers identified by industry representatives as possible sources of the yarns used to produce the subject fabric. An official with Unifi, which considers itself to be one of the world's largest producers and processors of textured polyester and nylon yarn,[15] stated that the firm produces all kinds of nylon yarn and that it could make the type of gimped nylon yarn that is used to produce the subject fabric.[16] The official noted, ***. A representative for INVISTA indicated that the firm produces many varieties of the 40 denier monofilament spandex that goes into the subject fabric and that this product is fairly available in the United States; she noted that *** also produce this type of spandex.[17]

An official of Carolina Mills, a manufacturer of rayon staple yarns, confirmed that the company produces the kind of staple rayon yarns that are 10/1 c.c. (English count) and that are used to produce the subject fabric. Carolina Mills has ***[18]***[19]

Fabric Producers

Information available to the Commission shows that there is currently no known domestic production of the subject fabrics. Commission staff contacted several producers identified in the petition or by industry sources as possible producers of the subject fabrics, including some of the producers the petitioner stated it had contacted regarding the production of the subject fabric. Officials of ***, confirmed that they do not produce the subject fabric.[20]

A Commission staff telephone interview with an official of *** yielded a different response, however.[21] The ***[22]***[23]***[24]

The official from Schneider Mills stated that it has a *** turnaround time advantage over Asian producers and that the mill's turnaround time for the subject fabric would be ***. According to the Schneider Mills official, the market for the subject fabric has been growing in recent years, especially for use in men's wear. He said that Schneider Mills could run ***. He also stated that there are several U.S. dyers and

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[11] ***, e-mail to Commission staff, Oct. 1, 2004.

[12] ***, telephone interview by Commission staff, Sept. 29, 2004.

[13] ***, telephone interview by Commission staff, Sept. 29, 2004.

[14] In general, the manufacturing progression for the fabrics which are the subject of the two petitions is: (1) fibers are processed or spun into yarns, (2) yarns are woven into fabrics, (3) fabrics are cut into components, and (4) components are sewn into finished goods.

[15] "Unifi," found at *http://www.unifi-inc.com/home.aspx*, retrieved Oct. 1, 2004.

[16] ***, telephone interview by Commission staff, Oct. 1, 2004.

[17] ***, telephone interview by Commission staff, Oct. 4, 2004.

[18] ***

[19] ***

[20] ***

[21] ***

[22] ***

[23] ***, telephone interview by Commission staff, Oct. 6, 2004.

[24] ***

finishers, including ***, which could dye and finish the subject fabrics.[25] The official stated that the company could offer full-package production from the fiber to the finishing stage.[26]

Views of interested parties

The Commission received a written submission opposing the petition from the International Textile Group, (ITG) which stated that it could produce the fabric requested by the petitioner (see earlier discussion for information on the ITG). ITG stated that it had been contacted by Mast Industries regarding the production of the twill rayon-nylon-spandex warp stretch fabric and that it asserted that it could produce the fabric. ITG explained that it would source the yarn domestically, weave the fabric or contract the weaving to another greige mill with expertise in weaving fabrics with warp stretch, and finish the product in ITG's Hurt, Virginia facility. As noted in the product discussion, ITG acknowledged that the fabric it would produce "would be an expensive fabric, but it could be done." ITG also stated that Mast Industries fails to include a specification for the amount of stretch in the fabric they seek and that without such a specification, fabrics with less stretch could gain access to the same preferential treatment. ITG also stated that it could import warp yarn in greige form to "help address the real issue, price."

Probable economic effect advice[27]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible CBTPA beneficiary countries from the twill rayon-nylon-spandex warp stretch fabrics named in the petition, regardless of the source of such fabrics, could have a slight adverse effect on U.S. fabric producers and their workers and would potentially have at most a negligible adverse effect on U.S. yarn and fiber producers and their workers. Although currently there are no subject fabrics in production in the United States, an official of Schneider Mills states that it has the specialized machinery and means to weave the fabrics and that it produced similar warp stretch fabrics for the petitioner two years ago. *** In addition, information available to the Commission indicates there currently is domestic production of the raw material inputs–nylon, spandex, and rayon staple fibers--for the U.S. production of yarns and U.S. yarn producers which can produce the yarns that are woven into the subject fabrics. ***

The proposed preferential treatment likely would have a negligible adverse effect on U.S. apparel producers and their employees. Imports supply most of the domestic market for women's apparel made from the subject fabrics. The expected increase in imports of apparel made in eligible CBTPA countries from the subject fabrics would likely displace mostly imports, because any U.S. production is likely for niche markets. The proposed preferential treatment would likely benefit U.S. firms and their workers making such apparel in eligible CBTPA countries from the subject fabrics by increasing the supply and availability of the fabrics. The proposed preferential treatment also would likely benefit U.S. consumers of apparel made from the subject fabrics to the extent that importers pass on some of the duty savings to retail consumers.

[25] Ibid.

[26] ***, telephone interview by Commission staff, Oct. 6, 2004.

[27] The Commission's advice is based on information currently available to the Commission.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-020

Products	**Women's and girls' nightwear of circular single-knit printed jersey fabric**
Requesting Parties	**Jaclyn, Inc., New York, NY**
Date of Commission Report: USTR Public	**November 1, 2004 November 5, 2004**
Commission Contact	**Brian Allen (202-708-4728; brian.allen@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON NOVEMBER 1, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports from eligible Caribbean Basin countries of women's nightwear containing certain circular single-knit jersey fabric, regardless of the source of the fabric, would likely have no effect on U.S. fiber, yarn, and fabric producers and their workers because there is no known domestic production of the subject fabric. There are also no known U.S. producers of the subject apparel. Therefore, the proposed preferential treatment would likely have no effect on any U.S. producers of women's and girls' knit nightwear and their workers. Further, the proposed action would likely benefit U.S. firms making apparel in eligible countries from the subject fabric, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). This investigation provides advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

The Commission's advice in this report relates to a petition received by CITA on September 20, 2004, alleging that certain circular single-knit jersey fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential

[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm.*

treatment for apparel made in eligible CBTPA beneficiary countries from such fabric, regardless of the source of the fabric.[2]

Discussion of the product

The petition states that the subject jersey fabric is classified in subheading 6006.34.00 (statistical reporting number 6006.34.0080) of the Harmonized Tariff Schedule of the United States (HTS) as a printed, knitted or crocheted fabric of synthetic fibers, not of double-knit or interlock construction.[3] The petition states that the jersey fabric will be used to make women's and girls' pajamas and nightdresses (hereinafter referred to as nightwear), which are classifiable in HTS chapter 61 (apparel, knitted or crocheted). The 2004 general rate of duty on women's and girls' manmade-fiber nightwear classifiable under subheading 6108.32.00 is 16 percent ad valorem.[4]

The petition[5] describes the fabric as a piece-dyed and printed, single-knit jersey fabric with a jacquard geometric rib stitch.[6] The subject fabric consists of 64 percent polyester, 35.5–35.8 percent cotton, and 0.2–0.5 percent spandex by weight. The fabric is made of spun yarn with a filament core. The yarn size is 54.14 metric (32/1 English count).[7] The petition states that the fabric must be knit on a jacquard machine in order to provide the "unique and complex geometric pattern, horizontal ribbing and puckered effect" and that the fabric must be piece-dyed (dyed in fabric form) before it is printed. The petition also specifies the stretch and recovery properties of the fabric (25 percent from a relaxed state and 90 percent recovery to a relaxed state).

The petitioner, Jaclyn, Inc., states that this fabric is "very lightweight" and "semi-transparent" and is a newer fabric that has not been available previously in the U.S. market and not available previously with the fabric's specific "type" of puckering. As the fabric will be used for women's nightwear, Jaclyn states that

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[2] The President may proclaim such action if (1) he determines that the subject fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner; (2) he has obtained advice from the Commission and the appropriate advisory committee; (3) he has submitted a report, within 60 calendar days after the request, to the House Committee on Ways and Means and the Senate Committee on Finance, that sets forth the action proposed, the reasons for such action, and advice obtained; (4) a period of 60 calendar days, beginning with the day on which he has met the requirements of (3), has expired; and (5) he has consulted with such committees on the proposed action during the 60-day period referred to in (3). In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[3] Separate data on U.S. imports of the subject fabric are not available because the fabric is grouped with other related knitted fabrics in HTS subheading 6006.34.00.

[4] Commission staff believes that the goods in question represent only a small percentage of the total imports under the subheading in question.

[5] The fabric named in this petition is very similar to the fabric that was specified in the petition submitted by Jaclyn to CITA on Aug. 30, 2004, and that was the subject of Commission Investigation No. 332-458-018. Consequently, many of the rationales that Jaclyn offered in support of that petition also apply in this investigation. Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), telephone interview by Commission staff, Oct. 14, 2004.

Among the differences between the current and previous petitions is the gauge of the knitting machinery used. The current petition references 28-gauge knitting machinery (see footnote 9, below) to be used in the production of the subject fabric, and the previous petition referenced 24-gauge knitting machinery. The U.S. knitting industry has a much greater capacity for knitting fabric using 28-gauge machinery because that machinery is more prevalent in the U.S. knitting industry; 24-gauge machinery is more prevalent in Japan. Charles Bremer, Sandler, Travis & Rosenberg, interview by Commission staff, Sept. 16, 2004 (conducted during the petition process for Investigation No. 332-458-018). Additionally, the fabrics are classifiable differently under the HTS because the subject fabric in the previous petition was dyed, whereas the subject fabric in this petition is dyed and printed.

[6] Information in the paragraph is from the petition filed with CITA on behalf of Jaclyn, Inc., by Sandler, Travis & Rosenberg, P.A., Sept. 20, 2004.

[7] The English count indicates the number of 840-yard lengths in a pound of yarn (the higher the yarn number, the lighter in weight or finer the yarn). An English yarn number of 32/1 indicates yarn size 32 and one ply. The conversion from the English count to the metric yarn number is "English yarn number multiplied by 1.6933" (the metric yarn number indicates the number of 1,000-meter lengths in a kilogram of yarn).

the softness and "hand" (or feel) of the fabric are important to its commercially successful use.[8] The composition of the yarn used to knit the fabric appears to be the defining characteristic that meets the petitioner's stated needs for this fabric. Jaclyn states that it, in conjunction with its customer, determined that this blended yarn (64 percent polyester/35.5–35.8 percent cotton/0.2–0.5 percent spandex) when knitted into fabric on a 28-gauge machine was "best" for Jaclyn and its customer.[9]

Jaclyn sources the fabric from *** and plans to use *** linear yards (*** square meters) of the fabric in 2004 and an estimated *** linear yards (*** square meters) of the fabric in 2005.[10] According to Jaclyn, *** sends the fabric to *** in a CBTPA country (***), which manufactures the nightwear.[11] The petitioner's website states that Jaclyn Apparel, a division of Jaclyn, Inc., provides sleepwear to department stores, mid-tier retailers, and national chains.[12] Jaclyn states that the nightwear at issue will be sold ***.[13]

Discussion of affected U.S. industries, workers, and consumers[14]

Commission staff contacted ***[15]***[16]***. Two companies not listed in the petition but referred to Commission staff were also contacted: ***.[17] None of the firms contacted by Commission staff stated that they currently make the subject fabric. ***.

An official of ***.[18]

An official of ***.[19]

An official of ***.[20]

An official of ***.[21]

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[8] Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), telephone interview by Commission staff, Oct. 14, 2004.

[9] *Ibid.* According to Jaclyn, a yarn composition different from the one specified in the petition would cause the fabric to have a different hand and a different weight. For example, decreasing the polyester content from 64 percent to 60 percent (a more common percentage in the U.S. fabric industry) would allegedly result in a different hand for the fabric. Similarly, decreasing or increasing the spandex content would affect the fabric's stretching characteristics. Further, a different composition for this fabric would result in a heavier or lighter yarn, which would affect the weight of the final knitted fabric.

The term "28-gauge" refers to the number of metal needles per inch affixed to the knitting cylinder. Machines using 28-gauge cylinders produce fabric that is denser than machines using 18-gauge cylinders but less dense than machines using 32-gauge cylinders. Denser fabric is also heavier than less dense fabric, a characteristic that, if not desired, can be alleviated by using lighter yarns, which can be created by changing the composition of the yarn. As noted, Jaclyn states that the composition of the yarn is important to the softness and hand of its desired fabric.

[10] *Ibid.* Jaclyn indicated that more fabric might be used in 2005 depending on consumer demand for the nightwear. *Ibid.*

[11] *Ibid.* Jaclyn indicated that production of the nightwear in the CBTPA country would be accounted for by ***. *Ibid.* ***. *Ibid.*

[12] See *http://jaclyninc.com/jaclyn-apparel.html*.

[13] Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), telephone interview by Commission staff, Oct. 14, 2004.

[14] In general, the manufacturing progression for textiles and apparel is: (1) fibers are processed into yarns, (2) yarns are made into fabrics, (3) fabrics are cut into components, and (4) components are sewn into finished goods.

[15] ***.

[16] Commission staff did not contact ***. ***.

[17] An official of *** did not respond to Commission staff inquiries as of Oct. 21, 2004.

[18] ***.

[19] ***.

[20] ***.

[21] ***, telephone interview by Commission staff, Oct. 19, 2004.

Commission staff located no U.S. companies that manufactured women's nightwear of this fabric domestically.[22]

Jaclyn stated that *** for these pajamas and nightdresses of this fabric.[23]

Views of interested parties

No written submissions were filed with the Commission.

Probable economic effect advice[24]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of nightwear made in eligible CBTPA beneficiary countries from the subject fabric, regardless of the source of the fabric, would likely have no effect on U.S. fiber, yarn, and fabric producers and their workers because there is no known current domestic production of the subject fabrics. In addition, because of the specific fabric properties—specific size, light weight, and soft hand—required by the customer, information available to the Commission indicates that there is no domestic production of jersey fabric that could be substitutable for the subject fabric.

Based on information available to Commission staff, the proposed preferential treatment likely would have no effect on U.S. apparel producers and their employees because there are no known U.S. producers of the subject apparel. Imports supply most of the domestic market for women's and girls' nightwear.[25] The expected increase in imports of nightwear made in eligible CBTPA countries from the subject fabric would likely displace mostly imports from other countries to the extent that consumers would choose this nightwear material over another type. The proposed preferential treatment would likely benefit U.S. firms making apparel in eligible CBTPA countries with the subject fabric by increasing the supply and availability of such fabrics. The proposed preferential treatment also would likely benefit U.S. consumers of apparel made from the subject fabric to the extent that importers pass on some of the duty savings to retail consumers.

[22] During the petition process for Investigation No. 332-458-018, the petitioner stated that they knew of no U.S. manufacturers of nightwear. Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), e-mail, Sept. 25, 2004 (received during the petition process for Investigation No. 332-458-018).

[23] Commission staff was unable to contact representatives of *** for comments as of Oct. 21, 2004.

[24] The Commission's advice is based on information currently available to the Commission.

[25] Steve Lamar, AAFA, telephone interview by Commission staff, Sept. 27, 2004 (conducted during the petition process for Investigation No. 332-458-018).

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-021

Products	**Apparel of woven double-napped cotton flannel fabric**
Requesting Parties	**Picacho, S. A., La Libertad, El Salvador**
Date of Commission Report: USTR	**November 4, 2004**
Public	**November 2004**
Commission Contact	**Jackie W. Jones (202-205-3466; jackie.jones@usitc.gov**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON AUGUST 25, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible Caribbean Basin countries from certain double-napped cotton flannel fabric, regardless of the source of the fabric, would likely have no adverse effect on U.S. yarn and fabric producers and their workers, because there currently is no known domestic production of the subject fabric. However, one U.S. fabric producer stated that it can produce the subject fabric. The proposed action would likely have little or no effect on U.S. producers of apparel and their workers, but would likely benefit U.S. firms making apparel in the Caribbean Basin from the subject fabric, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). This investigation provides advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

The Commission's advice in this report concerns a petition received by CITA on September 23, 2004, alleging that the subject fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA beneficiary countries from such fabric, regardless of the source of the fabric.[2]

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[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm.*

[2] The President may proclaim such action if (1) he determines that the subject fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner; (2) he has obtained advice from the Commission and the

(continued...)

Discussion of the product

The flannel fabric named in the petition filed on behalf of Picacho, S.A., of El Salvador, is similar to the flannel fabrics specified in three earlier petitions filed on behalf of Picacho (see specifications for the subject fabric in the tabulation below).[3] The current petition states that the subject fabric is classified in subheading 5209.31.60 (statistical reporting number 5209.31.6050) of the Harmonized Tariff Schedule of the United States (HTS), which provides for woven dyed and napped cotton sheeting fabric, containing 85 percent or more by weight of cotton, and weighing more than 200 grams per square meter.[4] The fabric is used by the petitioner to make shirts, trousers, nightwear, robes, dressing gowns and woven underwear, which are classified in HTS chapter 62 (apparel, not knitted or crocheted). The 2004 U.S. general rates of duty on such garments range from 6.1 percent to 19.7 percent ad valorem.[5]

Fabric specifications				
HTS statistical reporting number	**Finish**	**Weight and Width[1]**	**Construction**	**Yarn number for warp, filling, and overall average yarn number (AYN)[2]**
5209.31.6050	Piece-dyed, napped on both sides, and sanforized	203 g/m^2; 150 cm	21 warp ends/cm 18 filing picks/cm total: 39 threads/cm^2	Warp: 40.6 metric Filling: 13.54 metric AYN: 19.2 metric

[1] The fabric width is "cuttable" width, usable for making the garments.
[2] The warp yarn is ring spun, and the filling yarn is open-end spun.

The subject fabric, like the flannel fabrics specified in the three earlier Picacho petitions, is a "chamois cloth" flannel fabric that is made wholly of cotton, napped on both sides (double-napped) to impart a soft fuzzy feel, and sanforized to prevent shrinkage.[6] In addition, the subject fabric, like most of the flannel

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[2] (...continued)
appropriate advisory committee; (3) he has submitted a report, within 60 calendar days after the request, to the House Committee on Ways and Means and the Senate Committee on Finance, that sets forth the action proposed, the reasons for such action, and advice obtained; (4) a period of 60 calendar days, beginning with the day on which he has met the requirements of (3), has expired; and (5) he has consulted with such committees on the proposed action during the 60-day period referred to in (3). In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[3] CITA received the petitions on July 14, July 30, and Aug. 12, 2004. CITA subsequently determined that the flannel fabrics covered by these three petitions cannot be supplied by the domestic industry in commercial quantities in a timely manner. It proposed to designate shirts, trousers, nightwear, robes, dressing gowns, and woven underwear assembled in CBTPA beneficiary countries from such fabrics as eligible for preferential treatment under the CBTPA following expiration of the congressional layover period of 60 calendar days (in Nov. and Dec. 2004). The fabrics named in the petitions were the subject of Commission investigations No. 332-458-009, apparel of certain cotton flannel fabrics, No. 332-458-010, apparel of cotton flannel fabrics of yarns of different colors, and No. 332-458-015, apparel of certain cotton napped sheeting fabric.

[4] Separate data on U.S. imports of the subject fabric are not available because the fabric is grouped with other related fabrics in HTS statistical reporting number 5209.31.6050.

[5] Data on U.S. imports of apparel articles made from the subject fabric are not available; the statistical annotations in the HTS do not distinguish between garments of cotton flannel fabrics and those of other cotton fabrics. However, apparel articles made from the subject fabric likely represent a small share of total U.S. imports of the specified garments.

[6] Information in the paragraph is from the current petition filed on behalf of Picacho and received by CITA on Sept. 23, 2004; the petitions filed on behalf of Picacho and received by CITA on July 14, July 30, and Aug. 12, 2004; and from Andrew
(continued...)

fabrics covered by two of the earlier petitions, is piece-dyed (dyed in fabric form).[7] According to Ben Wachter Associates (BWA), which designs and markets the garments made with the subject fabric from its New York City offices and manufactures the garments in partnership with Picacho in El Salvador, the subject fabric is a new style and is slightly heavier in weight than the other flannel fabrics.[8] The warp yarns are ring spun yarns and the filling yarns are open-end spun yarns. The petitioner indicated that "the warp yarns must be ring spun in order to provide the additional tensile strength required to offset the degrading effects of heavy napping on both sides" of the fabric. The petitioner indicated that the production of the flannel fabrics requires specialized machinery for the napping process.

Discussion of affected U.S. industries, workers, and consumers[9]

Information available to the Commission indicates that there is currently no known domestic production of the subject fabric. However, as noted below, Wade Manufacturing Co. states that it can make (weave) the fabric.

Fabric producers

In connection with the Commission investigations regarding the three earlier petitions filed on behalf of Picacho,[10] Commission staff contacted four firms believed to weave cotton flannel fabrics in the United States for apparel applications: Cone Mills LLC, Greensboro, NC; Dan River Inc., Danville, VA; Mount Vernon Mills, Inc., Greenville, SC; and Wade Manufacturing Co., Wadesboro, NC. *** ***.[11] ***[12]***

In connection with the Commission investigations regarding the three earlier petitions filed on behalf of Picacho, Wade Manufacturing said it did not weave the flannel fabrics named in those petitions.[13] Wade stated that, based on the fabric specifications listed in those petitions (e.g., weight, thread count, number of picks, dyeing techniques, yarn type, and napping), it has the capability to weave each of the specified flannel fabrics in commercial quantities in a timely manner. *** Wade indicated it also can make the yarns listed in the petition. *** Wade noted that it can match the quality of the fabrics from Portugal. ***

Yarn producers

The Commission contacted two yarn producers that Wade Manufacturing stated as possible suppliers of ring spun yarns for flannel fabrics: ***.

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[6] (...continued)
Lerner, Ben Wachter Associates (BWA), telephone interviews by Commission staff, Aug. 5 and Oct. 19, 2004.

[7] The two petitions filed on behalf of Picacho that covered piece-dyed flannel fabrics were the subject of Commission investigations No. 332-458-009, apparel of certain cotton flannel fabrics, and No. 332-458-015, apparel of certain cotton napped sheeting fabric. The third Picacho petition, which was the subject of Commission investigation No. 332-458-010, covered flannel fabrics made from yarns of different colors.

[8] Andrew Lerner, Ben Watcher Associates (BWA), telephone interview by Commission staff, Oct. 19, 2004.

[9] In general, the manufacturing progression for the subject fabric and the previous and similar flannel fabrics reviewed by the Commission is: (1) fibers are processed or spun into yarns, (2) yarns are woven into fabrics, (3) fabrics are cut into components, and (4) components are sewn into finished goods.

[10] The fabrics named in the three earlier petitions were the subject of Commission investigations No. 332-458-009, apparel of certain cotton flannel fabrics, No. 332-458-010, apparel of cotton flannel fabrics of yarns of different colors, and No. 332-458-015, apparel of certain cotton napped sheeting fabric.

[11] ***

[12] ***

[13] Information in the paragraph is from Bernard M. Hodges, President, Wade Manufacturing Co., telephone interview by Commission staff, Aug. 9, 2004. ***

Apparel companies and retailers

BWA, a U.S.-based apparel company that is partnering with Picacho (petitioner), stated that the subject flannel fabrics used by Picacho are produced in a few mills in Portugal, which are the only suppliers of the fabric named in the current petition as well as the flannel fabrics named in the three earlier petitions in the exact specifications and quality levels demanded by customers. BWA indicated that it sells the garments made from the subject fabric to ***.

The retailers stated that they had sourced flannel fabrics from Cone Mills. However, *** said that Cone Mills had ceased production of chamois-cloth flannel fabrics. The retailer said it subsequently began to use chamois-cloth fabrics made by another U.S. mill,[14] ***. The retailer stated that it is difficult to produce chamois-cloth flannel fabric because of its complexity and that the U.S. industry no longer makes the flannel fabrics named in the current and earlier petitions filed on behalf of Picacho.[15] ***[16]

Views of interested parties

No written submissions were filed with the Commission.

Probable economic effect advice[17]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in CBTPA beneficiary countries from the subject fabric, regardless of the source of the fabric, would likely have no adverse effect on U.S. yarn or fabric producers, or their workers, because there is no known domestic production of the subject fabric or of the yarn used to make the fabric. One U.S. fabric producer, Wade Manufacturing, stated that it has the ability and capacity to produce the subject fabric. ***[18]

The proposed preferential treatment would likely have little or no effect on U.S. apparel producers and their workers. Imports supply most of the domestic market for cotton flannel apparel. The expected increase in imports of apparel made in CBTPA beneficiary countries from the subject fabric would likely displace mostly imports from other countries, because U.S. production is likely for niche markets or quick response programs. The proposed preferential treatment would likely benefit U.S. firms making the flannel apparel in CBTPA beneficiary countries by increasing the supply and availability of such fabrics. The proposed preferential treatment also would likely benefit U.S. consumers of apparel made from the subject fabrics to the extent that importers pass on some of the duty savings to retail consumers.

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[14] ***

[15] ***, telephone interview by Commission staff, Aug. 10, 2004.

[16] ***, telephone interview by Commission staff, Aug. 9, 2004.

[17] The Commission's advice is based on information currently available to the Commission.

[18] ***, and ***, telephone interviews by Commission staff, Aug. 9-10, 2004.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-022

Products	**Cotton sweaters containing certain open-end spun yarns**
Requesting Parties	**Bernette Textile Co., LLC, New York, NY**
Date of Commission Report: USTR **Public**	**November 23, 2004** **November 2004**
Commission Contact	**Laura Rodriguez (202-205-3499; laura.rodriguez@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON NOVEMBER 23, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (* * *).

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of chief-weight cotton sweaters made in eligible Caribbean Basin countries from certain open-end spun yarns, regardless of the source of the yarns, would likely have no adverse effect on U.S. fiber, yarn, and fabric producers and their workers because there is no known domestic production of the subject yarns or fabric knitted from the yarns. Certain underlying properties of the yarns are patented, and the fiber, yarn, and fabric are all produced under licensing agreements. In addition, the yarn is spun using a proprietary process, which apparently is the subject of a pending or future patent application. Nor do there appear to be any substitutable yarns. Although two U.S. yarn spinners claim that they could make the subject yarns, it appears that they currently do not have the technology in place to do so or in the past have failed to produce the subject yarns to the quality standards sought by the petitioner. The petitioner is the only domestic producer licensed to knit fabric from the subject yarns. The proposed action would also likely have no adverse effect on U.S. sweater producers because imports supply most of the U.S. market for cotton sweaters. Furthermore, the sweaters to be made from the subject yarn are a new product that are intended to target a new, higher-end niche. The proposed action would likely benefit U.S. firms making sweaters in eligible Caribbean Basin countries from the subject yarns, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). This investigation provides advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability"

provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

The Commission's advice in this report relates to a petition received by CITA on October 12, 2004, alleging that certain colored open end spun yarns of a blend of reclaimed and reprocessed staple cotton and acrylic staple fiber cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA beneficiary countries from such yarns, regardless of the source of the yarns.[2]

Discussion of the product

The petition filed by Bernette Textile Co. (Bernette), New York, NY, which designs, manufactures,[3] and markets sweaters and other knitwear, describes the subject yarns as colored, open-end spun yarns ranging in size from 6/1 to 18/1 English count (10.16/1 to 30.47/1 metric) and made in a blend of cotton and acrylic staple fibers.[4] The petition states that these chief-weight cotton yarns are classified in subheadings 5206.11.00 and 5206.12.00 of the Harmonized Tariff Schedule of the United States (HTS), which provide for cotton single yarn (other than sewing thread), containing less than 85 percent cotton by weight, of uncombed fibers, not put up for retail sale.[5] The yarns will be used by the petitioner to make chief-weight cotton sweaters, which are classified in HTS chapter 61 (apparel, knitted or crocheted) and subject to a general rate of duty of 16.5 percent ad valorem.

Bernette reportedly is the largest sweater supplier to department store and mid-tier retailers.[6] It is licensed to design and market sweaters containing Smart Fabric Technology® developed and patented by Outlast Technologies, Inc. (Outlast), Boulder, CO.[7] The technology is embedded in the acrylic staple fibers, which are mixed with reclaimed and reprocessed cotton fibers and spun into yarns (i.e., the subject yarns). The acrylic fibers are made in the United Kingdom under exclusive license from Outlast and contain patented

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[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm.*

[2] The President may proclaim such action if (1) he determines that the subject fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner; (2) he has obtained advice from the Commission and the appropriate advisory committee; (3) he has submitted a report, within 60 calendar days after the request, to the House Committee on Ways and Means and the Senate Committee on Finance, that sets forth the action proposed, the reasons for such action, and advice obtained; (4) a period of 60 calendar days, beginning with the day on which he has met the requirements of (3), has expired; and (5) he has consulted with such committees on the proposed action during the 60-day period referred to in (3). In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[3] ***

[4] The English count indicates the number of 840-yard lengths of yarn in one pound (the higher the yarn number, the lighter in weight or finer the yarn). The metric yarn number indicates the number of 1,000-meter lengths of yarn in one kilogram.

[5] Data on U.S. imports of the subject yarns are not available because the yarns are grouped with other related cotton yarns in HTS subheadings 5206.11.00 (yarns not exceeding 14 nm) and 5206.12.00 (yarns exceeding 14 nm but not exceeding 52 nm). The term "nm" means the number of 1,000-meter lengths of yarn in one kilogram.

[6] Outlast Technologies, Inc., Boulder, CO, news release, "Outlast Forms Partnership with Bernette Textile Company to Spin Fashionable Sweaters with a Technical Twist," Aug. 11, 2004, found at *http://www.fabriclink.com/pk/newsreleases/Outlast 0804.html*, retrieved Oct. 26, 2004.

[7] Outlast states that it is a privately held U.S. corporation and is the worldwide pioneer in developing unique phase change materials and applications. Outlast has launched its 'Smart Fabric Technology®' in outerwear, footwear, and bedding. Originally developed for NASA, Outlast fibers, fabrics and foams contain patented micro-encapsulated phase change materials (PCMs) called Thermocules®, which store, absorb and release heat, providing increased comfort to consumers. The firm developed its first PCMs in 1994 and launched its first commercial products three years later. Information on Outlast is from John Mitchell, Vice President, Business Development, Outlast Technologies, telephone interview by Commission staff, Nov. 1, 2004, and a company news release, "Outlast Forms Partnership with Bernette Textile Company to Spin Fashionable Sweaters with a Technical Twist," Aug. 11, 2004.

micro-encapsulated "phase change materials" (PCMs) that "store, absorb, and release heat."[8] According to the petition, garments containing this acrylic fiber are able "to store excess body heat and release it during the day, thereby making the wearer more comfortable than he or she would otherwise be." The petition also notes that the use of this particular acrylic fiber, along with the use of reclaimed and reprocessed cotton, which enables Bernette to market the sweaters as "environmentally friendly,"[9] provides the firm with "an important marketing advantage with strong appeal to many U.S. consumers."[10] Trade sources note that the subject yarns cost substantially more than similar cotton-acrylic blended yarns made in the United States. The subject yarns cost about $*** per pound, compared with *** per pound for similar cotton-acrylic yarns made domestically.[11] The petitioner states that a sweater made from the subject yarns will likely sell for about $*** at retail. As discussed later in this report, the higher cost of the subject yarns largely reflects the significant investment made in specialized equipment and production processes to produce acrylic staple fibers with PCMs and blend them into yarns with reclaimed and reprocessed cotton.

The petition states that the sweaters will be cut and assembled in El Salvador from knit fabric made in the United States and El Salvador. ***[12]***[13]***[14]*** U.S. sweater production is limited and has been declining in recent years so that imports supply most of the domestic market for sweaters.

Discussion of affected U.S. industries, workers, and consumers[15]

In general, the manufacturing progression for sweaters made from the subject yarns is: (1) the reclaimed cotton and the acrylic staple fibers containing PCMs are mixed together and processed (spun) into yarns, (2) the yarns are knitted into fabrics, (3) the fabrics are cut into components, and (4) the components are sewn into finished sweaters.

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[8] The PCMs are very small - most are around 2 microns in diameter. The PCMs are manufactured from a water-based emulsion and so are best suited to acrylic fiber manufacturers that use a water-based solvent system. The micro-capsules need to be prepared as a stable dispersion in the solvent system to be used and they are then introduced into the polymer stream by a late injection system. The acrylic polymer/pcm mixture needs to be mixed immediately before it is extruded through the very small holes of the spin jet. The acrylic fiber is then formed with the micro-capsules as part of the fiber structure. This process requires specialized equipment that costs about $3 million. John Mitchell, Vice President, Business Development, Outlast Technologies, telephone interview by Commission staff, Oct. 25, 2004; Brad Poorman, "Outlast Forms Partnership with Bernette Textile Company to Spin Fashionable Sweaters with a Technical Twist," news release, Aug. 11, 2004; Roland Cox, Market Development Manager, Amicor, email to Commission staff, Nov. 1, 2004; and Paul Saunders, President & Co-Owner, Sterling Fibers, telephone interview by Commission staff, Nov. 1, 2004.

[9] The petitioner considers the sweaters "environmentally friendly" because the cotton used in the subject yarns is obtained by "garnetting" cutting scraps left from the production of cotton T-shirts and other cotton knitwear (i.e., recover the fibers from the fabric scraps), instead of incinerating or disposing of the scraps in landfills. Adam Siskind, Chief Financial Officer, Bernette Textile Co., telephone interview by Commission staff, Nov. 12, 2004.

[10] Handtags provided by Outlast to licensees state the following: "This product features Outlast smart fabric technology. It will keep you comfortable by absorbing body heat when you create too much and releasing it when you need it most. By buffering skin temperature, Outlast material reduces overheating and sweating when you're active and prevents chill when you stop. Fabric and insulations stay drier and maintain their effectiveness, so you stay comfortable all day long." Charles Bremer, consultant, on behalf of Bernette Textile Co., email to Commission staff, Nov. 4, 2004.

[11] Spiro Pantziris, Chief Executive Officer, Spintex Yarns, Toronto, Canada, telephone interview by Commission staff, Oct. 28, 2004. According to U.S.-based Jimtex Yarns, which spins yarns from reclaimed cotton and standard staple acrylic fiber, ***. Harry Matusow, President, Jimtex Yarns, Philadelphia, PA, email to Commission staff, Nov. 11, 2004.

[12] John Mitchell, Vice President, Business Development, Outlast Technologies, telephone interview by Commission staff, Oct. 27, 2004.

[13] ***

[14] ***

[15] In general, the manufacturing progression for textiles is: (1) fibers are processed into yarns, (2) yarns are made into fabrics, (3) fabrics are cut into components, and (4) components are sewn into finished goods.

Fiber producers

Commission staff contacted the Fiber Economics Bureau[16] and two acrylic staple fiber producers, Solutia, and Sterling Fibers, Inc.[17] A representative of the Fiber Economics Bureau stated that currently there is no production of acrylic fiber with PCMs in the United States, or in Mexico, "nor is there any probability that production will occur in the future since Acordis of the United Kingdom has an exclusive license to manufacture this specialty acrylic fiber."[18] A representative of Solutia stated that the company does not make the acrylic fiber used in the subject yarns.[19] A representative of Sterling Fibers stated that the firm made acrylic fiber with the PCMs for Outlast Technologies for two years, about three years ago.[20] The representative stated that ***[21]***[22]***[23]***[24]

Yarn producers

Commission staff contacted the National Council of Textile Organizations (NCTO)[25] and several U.S. yarn spinners about the subject petition.[26] The only U.S. firm identified as currently spinning yarn from a blend of reclaimed cotton and acrylic staple fiber is Jimtex Yarns, Inc. However, a Jimtex representative stated that the firm does not make the subject yarns - - that is, yarns made from a blend of reclaimed cotton and staple acrylic fiber that contains PCMs. According to a Jimtex representative, the company spins yarns from reclaimed cotton and staple acrylic fiber (***) "every day of the week" in its plant in Lincolnton, GA, which opened in 2001 and has been producing cotton-acrylic blend yarns since then. *** The Jimtex representative noted that although production of cotton-acrylic blend yarns requires a specialized process, it is not particularly difficult.[27] He asserted that Outlast Technologies is not the only company that can offer fibers with thermostatic properties. He stated that other fibers with such properties include Thermax® and CoolMax®.[28] He also noted that Jimtex has a broad inventory of "fashion" colors, at least 50 ***.

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[16] The Fiber Economics Bureau is the Statistics division of the American Fiber Manufacturers Association, Inc., the trade association representing U.S. producers of synthetic and cellulosic fibers.

[17] Very little acrylic fiber production remains in the United States.

[18] Frank Horn, President, Fiber Economics Bureau, email to Commission staff, Oct. 29, 2004.

[19] Mark Bass, Business Director- Acrylic Fibers, Solutia, telephone interview with Commission staff, Oct. 29, 2004.

[20] Paul Saunders, President and Co-Owner, Sterling Fibers, telephone interview with Commission staff, Nov. 1, 2004.

[21] John Mitchell, Vice Presdient, Business Development, telephone interview with Commission staff, Oct. 27, 2004 and Brad Poorman, Senior Vice President, Sales and Marketing, Outlast Technologies, telephone interview with Commission staff, Nov. 16, 2004.

[22] Sterling and its subsidiaries filed for bankruptcy in 2001. It transferred its acrylic fibers business to local management for a nominal fee. See "Sterling Chemicals, Inc. - Company Profile," found at *http://biz.yahoo.com/ic/51/51332.html,* retrieved Nov. 17, 2004.

[23] Acordis, headquartered in the Netherlands, is a multinational group of businesses supplying customers worldwide with man-made fibers and specialty materials for industrial, textile, medical, and hygiene applications. It has production facilities in Europe, including the United Kingdom, the United States, and South America.

[24] Brad Poorman, Senior Vice President, Sales and Marketing, Outlast Technologies, Inc., telephone interview with Commission staff, Nov. 16, 2004.

[25] The National Council of Textile Organizations represents the entire textile sector - - the fiber, yarn, fabric, and supplier industries. This organization absorbed the American Yarn Spinners Association, the former national trade association representing the sales yarn manufacturing industry.

[26] Except as otherwise noted, the information in this paragraph is from Harry Matusow, President, Jimtex Yarns, Division of Martex Fibers, Southern Corporation, telephone interview with Commission staff, Oct. 21, 2004 and Nov. 10, 2004.

[27] Another industry representative stated that there is nothing unique about spinning acrylic fiber with reclaimed cotton. However, she emphasized that spinning the subject yarns from a blend of reclaimed cotton with acrylic staple fiber that contains PCMs embedded into it presents a unique challenge. It took time and considerable financial investment to develop a special process to ensure that the PCMs remained intact and undamaged by the spinning process. The resulting yarn is expensive. Mary Vane, Director-International Trade and Business Development, Invista, telephone interview with Commission staff, Nov. 4, 2004.

[28] CoolMax® is a "moisture transport fiber" developed by DuPont that provides wicking capability. It is a four-channel fiber that when spun into a fabric helps wick moisture quickly away from the skin (when the body perspires) to the outer layer of the

(continued...)

In its written submission to CITA, Jimtex Yarns stated that it has been making "this type of yarn for chief weight cotton sweaters since 1998" and in 2004 supplied colored open-end spun yarn blended from reclaimed and reprocessed cotton and various natural and solution-dyed acrylic staple fiber (known as "PDF") to Bernette Textile Co. for its El Salvador account.[29] Jimtex further noted that it has excess manufacturing capacity available to produce even more yarn and could add even more capacity. Jimtex also stated that its yarns are nearly identical in all respects to the yarns manufactured by Spintex, Bernette's Canadian supplier, and further noted that both companies use similar and readily available cotton carding machines and cotton open end spinning machines to produce the yarns. Jimtex also asserted that if requested, it would be able to make this product or a commercial substitute that has similar thermostatic/thermal-regulating/user-comfort properties and that it currently manufactures yarn products utilizing other acrylic fiber technologies.

Commission staff contacted Outlast Technologies for additional details concerning the production of the subject yarns.[30] The Outlast representative explained that Outlast licenses all business relationships[31] with its customers and manufacturers (along the entire production chain) to ***[32]*** Outlast sources its acrylic fiber yarn containing PCMs exclusively from Acordis' facility in the United Kingdom. Acordis uses highly specialized equipment that injects the PCMs into the acrylic fiber.

[33][34]***[35]***[36]***[37]***[38]***[39]

Views of interested parties

No written submissions were filed with the Commission.

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[28] (...continued)
fabric. CoolMax® is used is men's and women's underwear, hosiery/socks, T-shirts, sports bras, hats/gloves, and pants/shorts. CoolMax® focuses on moisture management rather than temperature management. Mary Vane, Director-International Trade and Business Development, Invista, telephone interview with Commission staff, Nov. 4, 2004 and DuPont CoolMax Performance Fabrics, "CoolMax, The High Tech Fabric That Keeps You Dry and Comfortable," found at *http://www.fabriclink.com/pk/coolmax/home.html,* retrieved Nov. 4, 2004. Information on Thermax® was not readily available to Commission staff.

[29] Information in this paragraph is from Edward J. Farrell and David M. Schwartz, counsel fo Jimtex Yarns, written submission to CITA, Nov. 4, 2004.

[30] Information in this paragraph and subsequent paragraphs concerning Outlast's licensing arrangements to produce the acrylic fiber with PCMs and to spin the subject yarn from reclaimed cotton and the special acrylic fiber is from Commission staff telephone interviews with John Mitchell, Vice President, Business Development, Outlast Technologies, Inc., Oct. 27-Nov. 10, 2003.

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[32] Jeff Siskind, President and Chief Operations Officer, Bernette Textile Co., telephone interview with Commission staff, Nov. 17, 2004 and John Mitchell, Vice President, Business Development, Outlast Technologies, Inc., telephone interview with Commission staff, Oct. 27, 2004.

[33] Spintex Yarns is a leading producer of cotton and cotton blend yarn made primarily from recycled components.

[34] About 20 to 30 other companies worldwide reportedly attempted to produce a yarn from a blend of reclaimed cotton with acrylic fibers that contain PCMs. None of these firms was successful. Spiro Pantziris, CEO, Spintex Yarns, Toronto, Canada, telephone interview with Commission staff, Oct. 28, 2004. ***

[35] Except where otherwise noted, information in this paragraph is principally from a Commission telephone interview with Spiro Pantziris, CEO, Spintex Yarns, Oct. 28, 2004.

[36] Open-end spun yarns, in addition to providing a quicker turnaround than ring spun yarn, also provide the rugged, athletic appearance and harsher hand desired for the sweaters Bernette intends to market to men. Charles Bremer, Consultant, on behalf of Bernette Textile Co., email to Commission staff, Nov. 4, 2004.

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[38] John Mitchell, Vice President of Business Development, Outlast Technologies, Inc., telephone interview with Commission staff, Oct. 25, 2004.

[39] Charles Bremer, Consultant, on behalf of Bernette Textile Co., email to Commission staff, Nov. 4, 2004.

Probable economic effect advice[40]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of chief-weight cotton sweaters made in eligible CBTPA beneficiary countries from the subject yarns, regardless of the source of such yarns, would likely have no adverse effect on a U.S. domestic industry or its workers, because there currently is no domestic production of fibers, yarns, or knitted fabrics made from a blend of reclaimed cotton and acrylic staple fiber with PCMs. The information available to the Commission suggests that the domestic industry does not have the technology in place to produce the subject yarns. Although U.S.-based Jimtex Yarns asserts that if requested, it would be able to make the subject yarns or a commercial substitute, it currently does not produce the subject yarns or a commercial substitute, and it appears unclear that it would be able to do so in a timely manner. As discussed earlier, it took Spintex Yarns of Canada 18 months and an investment of several hundred thousand dollars to create a unique spinning process to produce the subject yarns. The production processes for the subject yarns that Spintex developed are proprietary and are protected by exclusive licensing arrangements. Spintex has recently initiated efforts to patent its production process for the subject yarn.[41] In addition, although U.S.-based acrylic producer Sterling Fibers attempted to produce an acrylic fiber with the PCMs for Outlast Technologies, Sterling Fibers entered into bankruptcy at that time and was also unable to produce an acrylic fiber with PCMs that could meet Outlast Technologies' quality and performance standards.

Based on information available to the Commission, there also appears to be no substitutable yarns for the subject yarns. As discussed earlier, the subject yarns are sold at a much higher price - - at least double the price of yarns spun domestically from reclaimed cotton and standard acrylic staple fiber. In addition, the subject yarns appear to be the only yarns with both heating and cooling properties, whereas other U.S. yarns made from reclaimed cotton and staple acrylic fiber such as Coolmax® have either one or the other property but not both, or they handle moisture management only.

The proposed preferential treatment would also likely have no adverse impact on U.S. industry because (1) the scope of the petition is narrow, both in terms of the inputs required to produce the subject yarn, and in the end-use application (sweaters) in contrast to the wider set of end use-applications (e.g., socks, underwear, and sweaters) for domestically produced cotton-acrylic yarns, (2) the end-use target markets are different - - mid-tier and better department stores for the sweaters made from the subject yarns versus mass-market discounters for the garments made from domestic cotton-acrylic yarns, and (3) because the cotton sweaters to be produced from the subject yarns appear to represent a new product that is not yet in full production and will not be sold at retail until the fall of 2005.

The proposed preferential treatment would likely have no adverse effect on U.S. sweater producers and their employees because imports supply most of the domestic market for cotton sweaters. *** Furthermore, the production of the sweaters from the subject yarns will target a small, high-end segment of the U.S. sweater market (with a price point averaging $***[42]) and the expected increase in imports of sweaters made in eligible CBTPA countries from the subject yarns would at most, possibly displace a small level of other imported sweaters or simply slightly increase the overall level of U.S. sweater imports. The proposed preferential treatment also would likely benefit U.S. consumers of sweaters made from the subject fabrics to the extent that importers pass on some of the duty savings to retail consumers and also to the extent that they take advantage of a new product line made available to them.

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[40] The Commission's advice is based on information currently available to the Commission.

[41] Spiro Pantziris, CEP, Spintex Yarns, telephone interview with Commission staff, Nov. 18, 2004.

[42] Jeff Siskind, President and Chief Operations Officer, Bernette Textile Co., telephone interview with Commission staff, Nov. 17, 2004.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-023

Products	**Women's and girls' nightwear of certain circular single-knit jersey fabrics**
Requesting Parties	**Jaclyn, Inc., New York, NY**
Date of Commission Report: USTR Public	**November 30, 2004 December 2004**
Commission Contact	**Jackie W. Jones (202-205-3466; jackie.jones@usitc.gov)**

NOTICE
THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON NOVEMBER 30, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (* * *).

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of women's and girls' nightwear made in eligible Caribbean Basin countries from certain circular single-knit jersey fabrics, regardless of the source of the fabrics, could have a negligible adverse effect on U.S. yarn, fabric, and apparel producers and their workers. Although there is no known domestic production of the subject fabrics, several producers stated that they have the capability, capacity, and willingness to produce the subject fabrics. However, information is not available as to whether these firms could produce fabrics of the same or similar quality as the subject fabrics. The proposed preferential treatment could have some adverse effect on the few domestic producers of women's and girls' nightwear; however, information is not available on the degree of substitutability of U.S. fabrics used by domestic apparel producers for the subject fabrics. The proposed action would likely benefit U.S. firms making such nightwear in eligible countries from the subject fabrics, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). This investigation provides advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

The Commission's advice in this report relates to two petitions received by CITA on October 19, 2004, alleging that certain circular single-knit jersey fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA beneficiary countries from such fabrics, regardless of the source of the fabrics.[2]

Discussion of the product

The two petitions state that the subject fabrics are classified in subheading 6006.32.00 (statistical reporting number 6006.32.0080) and subheading 6006.31.00 (statistical reporting number 6006.31.0080) of the Harmonized Tariff Schedule of the United States (HTS), which are residual or "basket" provisions providing for certain knitted or crocheted fabrics of synthetic fibers, not of double-knit or interlock construction, whether dyed (6006.32.0080) or unbleached or bleached (6006.31.0080).[3] The petitions describe the subject fabrics as circular single-knit jersey fabrics with a jacquard geometric rib stitch, as specified in the tabulation on the following page. The petitions state that the subject fabrics will be used to make women's and girls' pajamas and nightdresses (hereinafter referred to as nightwear), which are classifiable in HTS chapter 61 (apparel, knitted or crocheted). The 2004 general rate of duty on women's and girls' manmade-fiber nightwear classifiable under subheading 6108.32.00 is 16 percent ad valorem.[4]

[2] The President may proclaim such action if (1) he determines that the subject fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner; (2) he has obtained advice from the Commission and the appropriate advisory committee; (3) he has submitted a report, within 60 calendar days after the request, to the House Committee on Ways and Means and the Senate Committee on Finance, that sets forth the action proposed, the reasons for such action, and advice obtained; (4) a period of 60 calendar days, beginning with the day on which he has met the requirements of (3), has expired; and (5) he has consulted with such committees on the proposed action during the 60-day period referred to in (3). In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[3] Separate data on U.S. imports of the subject fabrics are not available because the fabrics are grouped with other related knitted fabrics in HTS subheadings 6006.31.00 and 6006.32.00.

[4] Commission staff believes that the goods in question represent only a small percentage of the total imports under the subheadings in question.

Fabric specifications				
HTS statistical reporting numbers	**Finish and weight**	**Construction and gauge**	**Fiber content, by weight, and yarn size**	**Stretch characteristics**
Fabric 1: 6006.32.0080	Piece-dyed; 6.165 m^2/kg	Circular, single knit jersey; jacquard geometric rib stitch; 24 gauge	66-68% polyester staple, 32-34% cotton, 0.2-0.5% spandex; 54.14 metric, 32/1 English, spun, filament core	Minimum 25% from relaxed state; 90% recovery to relaxed state
Fabric 2: 6006.31.0080 6006.32.0080	Bleached or piece-dyed; 6.06 m^2/kg	Circular, single knit jersey; jacquard geometric rib stitch; 28 gauge	64% polyester staple, 35.5-35.8% cotton, 0.2-0.5% spandex; 54.14 metric, 32/1 English, spun, filament core	25% from relaxed state; 90% recovery to relaxed state

The primary differences between the subject fabrics of the 2 current petitions is that the subject fabric referred to in the tabulation as fabric 1 is made on 24-gauge[5] knitting machines and weighs slightly more at 6.165 m^2/kg, while the subject fabrics referred to in the tabulation as fabric 2 are made on 28-gauge knitting machines and weigh 6.06 m^2/kg.

The current petitions are the third and fourth petitions filed by Jaclyn, Inc. in 2004 on similar fabrics. Fabric 1 is similar to the circular single-knit jersey fabric that was the subject of Commission Investigation No. 332-458-018, except that the subject fabric contains less spandex.[6] Fabric 1 contains *** for the fabric in the earlier investigation. The subject fabrics referred to in the tabulation as fabric 2 are identical to the fabrics reviewed in Commission Investigation No. 332-458-020, except that the subject fabrics are piece-dyed a solid color rather than dyed and printed.[7]

A prior petition received by CITA from Jaclyn, Inc. on September 20, 2004, states that the circular single-knit jersey fabrics must be knit on a jacquard machine in order to provide the "unique and complex

[5] According to industry sources, U.S. knitting mills tend to have 28-gauge knitting machines; not 24-gauge knitting machines. *** The term "28-gauge" refers to the number of metal needles per inch affixed to the knitting cylinder. Machines using 28-gauge cylinders produce fabric that is denser than machines using 18- or 24-gauge cylinders but less dense than machines using 32-gauge cylinders. Denser fabric is also heavier than less dense fabric, a characteristic that, if not desired, can be alleviated by using lighter yarns, which can be created by changing the composition of the yarn.

[6] Petitions filed with CITA on behalf of Jaclyn, Inc., by Sandler, Travis & Rosenberg, P.A., Aug. 31, 2004, and Oct. 19, 2004, and telephone interview by Commission staff with Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), Nov. 1, 2004.

[7] Petitions filed with CITA on behalf of Jaclyn, Inc., by Sandler, Travis & Rosenberg, P.A., Sept. 20, 2004, and Oct. 19, 2004.

geometric pattern, horizontal ribbing and puckered effect".[8] The prior Commission reviews report that the petitioner, Jaclyn, Inc., stated that these fabrics are "very lightweight" and "semi-transparent" and are newer fabrics that have not been available previously in the U.S. market and not available previously with the fabrics' specific "type" of puckering. As the fabric will be used for women's nightwear, Jaclyn stated that the softness and "hand" (or feel) of the fabric are important to its commercially successful use.[9] An official for Jaclyn, Inc. explained that the composition of the yarns is important to achieve the soft hand (or feel) of the fabric.[10]

It is unclear exactly what the fiber content of the yarns is in each of the fabrics covered by the subject petitions, because the descriptions in the petitions are not complete and ***[11]***

Jaclyn Inc., the petitioner, states that it has the nightwear made in a CBTPA country *** from the subject fabrics, which it sources from ***.[12] Jaclyn stated that the nightwear made from the subject fabrics is part of Jaclyn Inc.'s ***. An official for Jaclyn, Inc. stated that the fabric was ***[13]***[14]

Industry sources indicate that the price of the imported subject fabrics likely would be lower than the price of the same or similar fabrics domestically made. ***[15]***[16] An official of ***.[17]

Discussion of affected U.S. industries, workers, and consumers[18]

Yarn producers

According to industry sources, the following U.S. yarn spinning mills have the capability to produce blended yarns of polyester and cotton staple fibers in the 30s count range: ***[19] However, it is uncertain how many of these domestic mills would be willing to produce the exact polyester/cotton blended spun yarns required by the petitioner to knit the subject fabrics. An official of Carolina Mills stated that ***.[20] An official of R.L. Stowe Mills, Inc., which ***[21]***

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[8] Petition filed with CITA on behalf of Jaclyn, Inc., by Sandler, Travis & Rosenberg, P.A., Sept. 20, 2004. ***

[9] Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), telephone interview by Commission staff, Oct. 14, 2004.

[10] Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), telephone interview by Commission staff regarding first petition filed by Jaclyn, Inc., Sept. 14, 2004. A yarn composition different from the one that Jaclyn created would reportedly have a different hand and a different weight. For example, decreasing the polyester content from Jaclyn's 64-percent to 60 percent (a more common percentage in the U.S. fabric industry) would allegedly result in a different hand.

[11] ***

[12] Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), telephone interview and e-mail correspondence by Commission staff, Nov. 1 and Nov. 3, 2004, respectively.

[13] Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), e-mail correspondence with Commission staff, Nov. 3, 2004; and petitions filed with CITA on behalf of Jaclyn, Inc., by Sandler, Travis & Rosenberg, P.A., Oct. 19, 2004.

[14] ***

[15] Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), telephone interview by Commission staff, Nov. 1, 2004.

[16] ***

[17] ***

[18] In general, the manufacturing progression for textiles and apparel is: (1) fibers are processed into yarns, (2) yarns are made into fabrics, (3) fabrics are cut into components, and (4) components are sewn into finished goods.

[19] Information from official submission by Michael S. Hubbard, Vice President, on behalf of the National Council/Textile Organization, Nov. 10, 2004, and ***.

[20] ***

[21] *** R.L. Stowe Mills, Chattanooga, TN, telephone interview by Commission staff, Nov. 15, 2004.

An official of Unifi, Inc., which produces all types of manmade-fiber filament yarns, stated that it would be able to supply the spandex core polyester filament yarn.[22]

Fabric producers

Information available to the Commission shows that there is no known current domestic production of the subject fabrics. Commission staff contacted several producers identified by industry sources as possible producers of the subject fabrics, including some of the producers the petitioner cited in the first petition filed August 30, 2004, as producing fabrics similar to the subject fabrics.[23] Of the eight U.S. fabric mills Commission staff contacted during the current investigation, ***.[24] Officials of a second knitting mill, ***[25]***[26] An official of ***.[27] As part of the previous reviews conducted by the Commission on similar fabrics, an official of ***.[28]

After having analyzed a sample of the subject 28-gauge fabric (fabric 2), officials of ***.[29]

An official of another U.S. fabric mill, ***.

An official for another U.S. fabric producer, ***[30]***.

Apparel producers

According to industry sources, there are a few U.S. apparel companies that manufacture domestically women's and girls' nightwear of single-knit jersey, jacquard knitted fabrics.[31]

Views of interested parties

The Commission received a written submission from the National Council of Textile Organizations (NCTO) opposing the subject petitions because there are U.S. yarn producers and knitters which are willing and have the capability to produce the necessary yarns and the subject fabrics in commercial quantities in a timely manner.[32] More specifically, the NCTO said that U.S. yarn spinners can produce the spun yarns in the "desired count and blend ratios on the ring, open-end, and air jet systems" and that U.S. fabric mills can produce "fine gauge jacquard knits." A confidential attachment to the submission listed the ***

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[22] Jane Johnson, Government Relations Manager, Unifi, Inc., telephone interview by Commission staff, Nov. 16, 2004.

[23] *** were not contacted during the course of the current investigation because the first two companies reported in Investigation No. 332-458-020 that they would not produce the subject and similar fabrics and *** did not respond to Commission inquiries.

[24] ***

[25] ***

[26] *** According to the official submission by Michael S. Hubbard, Vice President, on behalf of the NCTO, Nov. 10, 2004, *** stated that it could and was willing to produce both of the subject fabrics.

[27] ***

[28] ***

[29] ***

[30] ***

[31] During the petition process for Investigation No. 332-458-018, the petitioner stated that he knew of no U.S. manufacturers of nightwear. Gary Shepard, Director of Manufacturing, Jaclyn Apparel (a division of Jaclyn, Inc.), e-mail, Sept. 25, 2004. However, ***

[32] Michael S. Hubbard, Vice President, on behalf of the NCTO, written submission to the Commission regarding "Commercial Availability Review on Women's and Girls' Nightwear of Certain Circular Knit Jersey Fabrics, Investigation No. 332-458-023," Nov. 10, 2004.

Probable economic effect advice[33]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of women's and girls' nightwear made in eligible CBTPA beneficiary countries from the subject fabrics, regardless of the source of the fabrics, would likely have a negligible adverse effect on U.S. yarn, fabric, and apparel producers and their workers. Several U.S. knit fabric producers stated that they have the capability and capacity, as well as willingness, to produce the subject fabrics; however, information is not available as to whether these firms could produce fabrics of the same or similar quality as the subject fabrics. Among the U.S. knit fabric producers contacted by Commission staff, ***. Among the U.S. yarn producers contacted by Commission staff, ***. In addition, information available to the Commission indicates that the raw materials needed to produce the yarns, (cotton and polyester staple fibers and spandex and polyester filament), are available domestically.

The proposed preferential treatment could have an adverse effect on domestic producers of women's and girls' nightwear; however, information is not available on the degree of substitutability for U.S. fabrics used by such domestic apparel producers for the subject fabrics. According to industry sources, there are ***. U.S. imports account for the majority of the domestic market for women's and girls' nightwear. The proposed preferential treatment would likely benefit U.S. firms and their workers making such apparel in eligible CBTPA countries from the subject fabrics by increasing the supply and availability of the fabrics. The proposed preferential treatment would also likely benefit U.S. consumers of the nightwear made from the subject fabrics to the extent that importers pass on some of the duty savings to retail consumers.

[33] The Commission's advice is based on information currently available to the Commission.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-024

Products	**Boys' apparel of certain polyester fabrics**
Requesting Parties	**Fishman & Tobin, Inc., Conshohocken, PA**
Date of Commission Report USTR **Public**	**January 24, 2005** **January 2005**
Commission Contact	**Robert W. Wallace (202-205-3458; robert.wallace@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON JANUARY 24, 2005. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The fabrics named in the petition filed by Fishman & Tobin with the Committee for the Implementation of Textile Agreements (CITA) in December 2004, and under review in this report, are similar to those named in the petition that it filed with CITA in July 2004. CITA denied Fishman & Tobin's first petition, stating that the subject polyester fabrics could be supplied by the domestic industry in commercial quantities in a timely manner.[1] In the current petition, Fishman & Tobin narrowed the fabric coverage to certain polyester fabrics made of "at least three different colored yarns" and used in "boys' suits, suit-type jackets and blazers, and trousers, in sizes 2T-20."[2] The lone U.S. fabric producer that submitted a written statement in opposition to the July 2004 petition, the International Textile Group (ITG - Burlington Division), states that it does not make the fabrics named in the current petition.[3] In addition, the current petition states that, in discussions between Fishman & Tobin and ITG officials, "it was agreed that the mill [Burlington] does not . . . object to the instant petition, so long as it is limited to polyester fabrics containing at least three different colored yarns."[4]

The Commission is unaware of any firm that makes the subject fabrics in the United States; however, ITG makes polyester fabrics in the United States that may be substitutable for the subject fabrics. The Commission in the current review finds that granting duty-free and quota-free treatment to U.S. imports of the specified boys' apparel made in eligible Caribbean Basin countries from the subject fabrics, regardless of the source of the fabrics, would likely have a negligible adverse effect on U.S. yarn and fabric producers and their workers. The proposed preferential treatment would likely have no adverse effect on U.S.

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[1] CITA's decision regarding the polyester fabrics named in the July 2004 petition appeared in the *Federal Register* of Oct. 12, 2004 (69 F.R. 60618). The fabrics are identified in the CITA notice as "Fabric 3 - Fancy Polyester Filament Fabric." The U.S. International Trade Commission conducted its review of the fabrics in its report, "Apparel of Fancy Polyester Filament Fabric," investigation No. 332-458-014, Sept. 2004.

[2] A discussion of the differences between the polyester fabrics named in the current petition and those named in the July 2004 petition appears in the section of this report entitled "discussion of the product."

[3] Jeff Peck, Product Manager, ITG, Greensboro, NC, telephone interview by Commission staff, Jan. 2005.

[4] See petition filed on behalf of Fishman & Tobin by Sharretts, Paley, Carter & Blauvelt, P.C., New York, NY, received by CITA on Dec. 12, 2004, footnote 1, page 2.

apparel producers or their workers because there is no known domestic production of boys' polyester dress clothing. The proposed preferential treatment would likely benefit U.S. firms making the boys' apparel in eligible countries, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with CITA under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[5]

The Commission's advice in this report relates to a petition received by CITA on December 12, 2004, alleging that certain polyester fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for certain boys' apparel made in eligible CBTPA countries from such fabrics, regardless of the source of the fabrics.[6]

Discussion of the product

The petition states that the subject fabrics are classified in the Harmonized Tariff Schedule of the United States (HTS) under subheading 5407.53.20, which provides for certain woven fabrics containing 85 percent or more by weight of textured polyester filaments, of yarns of different colors, and weighing either not more than 170 grams per square meter, if a flat fabric (statistical reporting number 5407.53.2020) or more than 170 grams per square meter (5407.53.2060).[7] The fabrics named in the petition are for use in boys' suits, suit-type jackets and blazers (sport coats), and trousers, in sizes 2T-20, which are classified in HTS chapter 62 (apparel, not knitted or crocheted). U.S. duty rates on such apparel are 27.3 percent ad valorem for the suits (subheading 6203.12.20) and sport coats (6203.33.20) and 27.9 percent ad valorem for the trousers (6203.43.40).[8]

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[5] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm.*

[6] The President may proclaim such action if (1) he determines that the subject fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner; (2) he has obtained advice from the Commission and the appropriate advisory committee; (3) he has submitted a report, within 60 calendar days after the request, to the House Committee on Ways and Means and the Senate Committee on Finance, that sets forth the action proposed, the reasons for such action, and advice obtained; (4) a period of 60 calendar days, beginning with the day on which he has met the requirements of (3), has expired; and (5) he has consulted with such committees on the proposed action during the 60-day period referred to in (3). In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[7] The fabrics named in the July 2004 petition were classified in the HTS under four statistical reporting numbers that provide for certain woven fabrics containing 85 percent or more by weight of textured polyester filaments, depending on fabric weight and whether the fabrics were dyed (5407.52.2020 and 5407.52.2060) or made of yarns of different colors (5407.53.2020 and 5407.53.2060). The current petition excludes the two statistical reporting numbers for the dyed fabrics.

[8] Separate data on U.S. imports of the specified fabric or boys' apparel are not available because, for tariff and statistical reporting purposes, the fabric and apparel are grouped with other related fabrics or apparel articles, respectively.

The fabrics named in the current petition,[9] like those named in the July 2004 petition, are made (1) wholly of polyester filament yarns, (2) in plain, twill, and satin weave patterns, and (3) from yarns of different sizes (in combinations of 75, 100, 150, and 300 denier)[10] and either 100-percent cationic yarns or different mixtures of cationic and disperse fibers (the mixtures, expressed as a percentage by weight, are 25-75, 50-50, and 75-25).[11] However, the current petition limits the product coverage to fabrics that are made with "at least three different yarns, each of which is of a different color," and for use in the specified boys' apparel. The fabrics named in the July 2004 petition could be dyed in fabric form ("piece-dyed") or made from "yarns of different colors," with no requirement that the fabrics had to contain a minimum number of different colored yarns.[12] In addition, the CITA notice requesting public comment on the July 2004 petition did not limit the fabrics to those for use in the specified boys' apparel articles.

Fishman & Tobin imports children's clothing made in CBTPA countries either from its subsidiary in the Dominican Republic or from independent contractors in Guatemala and Nicaragua. A trade report states that the firm "controls some 90 percent of the boys' dresswear market" (suits, dress shirts, blazers and pants).[13] According to Fishman & Tobin, ***.[14] Fishman & Tobin sources the subject fabric from Taiwan ***. The current petition references the July 2004 petition in which Fishman & Tobin states that it intended to purchase the subject fabrics in lots of 25,000 to 50,000 yards (approximately 22,900 to 45,700 meters).

Discussion of affected U.S. industries, workers, and consumers

Fabric segment[15]

There are no known producers of the subject fabrics in the United States. An official of ITG stated that the firm's Burlington Division produces 100-percent polyester fabrics from cationic-disperse yarns but not in the specifications stated in the current petition.[16] ***

Yarn segment

An official of Unifi, Inc., Greensboro, NC, stated that the firm's domestic production includes the capability to produce polyester filament yarns of a kind used in the subject fabrics.[17] Although Unifi opposed the July 2004 petition,[18] the Unifi official said the firm does not oppose the current petition ***.

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[9] Information on the fabrics is from the petitions filed with CITA on behalf of Fishman & Tobin, July and Dec. 2004; email correspondence with Fishman & Tobin and its counsel, Aug. 2004; and an interview by Commission staff with Robert Granato, Vice President, Fabric Sourcing & Purchasing, Fishman & Tobin, Jan. 2005.

[10] Denier is a measure of the linear density, or weight per unit length, of a yarn. It indicates the weight, in grams, of 9,000 meters of yarn (the higher the denier number, the heavier or thicker the yarn).

[11] The petition states that more than one color can be used in one dye vat and each color will adhere to either a cationic or disperse yarn. It states that the use of such yarns results in a high-quality fabric, with a variety of color and background effects that cannot be duplicated with the use of disperse yarns alone. However, fabrics made of 100-percent cationic yarns may not result in a fabric containing more than one color, ***.

[12] The fabrics named in the July 2004 petition generally contained two different colored yarns, according to Robert Granato, Vice President, Fabric Sourcing & Purchasing, Fishman & Tobin, interview by Commission staff, Jan. 2005.

[13] See "The Present: Offering a True Competitive Advantage," *DNR* (*Daily News Record*), Fairchild Publications, New York, NY, Aug. 9, 2004 (page 9 of a 19-page advertisement on the firm celebrating 90 years of being in business).

[14] Robert Granato, Vice President, Fabric Sourcing & Purchasing, Fishman & Tobin.

[15] In a written statement to CITA of Aug. 2004, Ben Shoaf, President, Apparel & Specialty Fabrics Division, Milliken & Co., Spartanburg, SC, stated that the firm had the capability to produce commercial quantities of the fabrics named in the July 2004 petition. In a telephone interview by Commission staff in Sept. 2004, a Milliken official (***) said the firm does not make the specified fabrics.

[16] Information on ITG is from Jeff Peck, Product Manager, ITG, telephone interview by Commission staff, Jan. 2005.

[17] Information on Unifi is from Jane L. Johnson, Government Relations Manager, Unifi, Inc., telephone interview by Commission staff, Jan. 2005.

[18] Thomas H. Caudle, Jr., Vice President, Global Operations, Unifi, Inc., written submission to CITA, Aug. 2004.

An official of Dillon Yarn Corp., Dillon, SC, stated that the firm produces or can produce polyester filament yarns of a kind used in the subject fabrics.[19] ***

Apparel segment

The U.S. market for boys' dress clothing is supplied almost entirely by imports. As noted above, Fishman & Tobin reportedly accounts for almost all of this market and it currently makes or sources the garments abroad, such as in CBTPA countries.

Views of interested parties

No written submissions were filed with the Commission.

Probable economic effect advice[20]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of boys' suits, sport coats, and trousers (in sizes 2T-20) made in eligible CBTPA beneficiary countries from the subject fabrics, regardless of the source of the fabrics, would likely have a negligible adverse effect on U.S. yarn and fabric producers and their workers. Although there is no known domestic production of the subject fabrics, the proposed preferential treatment could reduce demand for U.S.-made polyester fabrics that may be substitutable for the subject fabrics and, in turn, reduce demand for U.S.-made yarns used in such fabrics.

The proposed preferential treatment would likely have no adverse effect on U.S. apparel producers or their workers because the domestic market for boys' dress clothing reportedly is supplied almost entirely by imports. As such, any increase in imports of the specified boys' apparel from eligible CBTPA countries as a result of the proposed preferential treatment would displace imports from other, mainly Asian, countries. The proposed preferential treatment would likely benefit U.S. firms making the boys' apparel in eligible CBTPA countries by increasing the supply and availability of the subject fabrics. U.S. consumers also would likely benefit to the extent that importers pass on some of the duty savings to retail consumers. As noted above, the duty rates on the boys' apparel articles are about 27 percent ad valorem.

[19] Information on Dillon Yarn is from Shawn Dougherty, Director, Strategy and Trade Affairs, Dillon Yarn Corp., Dillon, SC, telephone interviews by Commission staff, Aug. 2004 and Jan. 2005.

[20] The Commission's advice is based on information currently available to the Commission.

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-025

Products	**Apparel of Certain Yarn of Micro Modal® Fiber**
Requesting Parties	**Texollini, Inc., Long Beach, CA**
Date of Commission Report USTR **Public**	**February 7, 2005** **February 2005**
Commission Contact	**Laura Rodriguez (202-205-3499; laura.rodriguez@usitc.gov)**

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON FEBRUARY 7, 2005. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of certain women's and girls' apparel made in eligible Caribbean Basin, Andean, and Sub-Saharan African countries from certain ring-spun yarns made of micro modal® fibers, regardless of the source of the yarns, would likely have no adverse effect on U.S. fiber, yarn, fabric, or apparel producers and their workers.[1] There is no known domestic production of the subject yarns or of fabric knitted from these yarns. The sole producer of micro modal® fibers, a firm located in Austria, allocates most of its fibers to its larger, European market. Several U.S. yarn spinners claim that they could produce the subject yarn if the fibers were available. The petitioner asserts that no yarns can be considered substitutable for the subject yarns. Although a U.S. yarn spinner of open-end spun yarns of micro modal® fibers contends that its yarns are substitutable for the subject yarns, it appears that the open-end spun yarns are not substitutable because ring-spun yarns are more expensive, take longer to produce, are stronger, have a softer, smoother hand, and can be spun in much finer yarn counts. The petitioner is the only known U.S. knitter that plans to produce fabric from the subject yarn. The proposed action would likely benefit U.S. firms making women's apparel in eligible countries from knit fabric made from the subject yarn, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). This investigation

[1] In connection with a petition filed in June 2003 on behalf of Ge-Ray Fabrics, Inc., CITA determined that certain ring-spun single yarns, made of micro modal fiber and U.S. pima cotton, cannot be supplied by the domestic industry in commercial quantities in a timely manner. CITA's decision appeared in the *Federal Register* of October 30, 2003 (68 F.R. 61792). The U.S. International Trade Commission conducted its review of the fabrics in its report, "Apparel of Certain Yarn of Micro Modal Fiber/Cotton," investigation No. 332-450-006, July 2003.

provides advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[2]

The Commission's advice in this report relates to a petition received by CITA on December 27, 2004, alleging that certain ring-spun single yarns, made of micro modal® fibers, cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA, AGOA, and ATPDEA beneficiary countries from such yarns, regardless of the source of the yarns.[3]

Discussion of the product

The petition filed by Texollini, Inc. (Texollini), Long Beach, CA, a vertically integrated knitting mill that provides fabric development, knitting, dyeing, finishing, fabric print design and printing capabilities to its customers,[4] describes the subject yarns as ring-spun single yarns of "yarn counts" of 30[5] and higher which are made of micro modal® fibers.[6] According to Texollini, and as stated in a petition filed with CITA by another firm in June 2003,[7] modal® is a "variant of rayon fiber" in which the cellulose used to make the modal fiber undergoes a higher degree of polymerization than that for viscose rayon. Micro modal® fiber is modal fiber of extreme fineness - - the individual fibers are of 0.9 denier or finer.[8] The petitioner asserts that micro modal® fiber has markedly different characteristics from other types of viscose rayon. Particularly important is the micro modal® fiber's strength when wet. Unlike ordinary rayon, micro modal® fiber can be subjected to a variety of dyeing and processes requiring water and can be laundered frequently without fading. Consequently, micro modal® fabric is more versatile than fabric made from ordinary rayon.

The petition states that the subject yarns are classified in subheading 5510.11.00 of the Harmonized Tariff Schedule of the United States (HTS), which provides for single yarn (other than sewing thread), of artificial

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[2] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at *http://www.usitc.gov/ind_econ_ana/research_ana/pres_cong/332/short_supply/shortsupintro.htm.*

[3] The President may proclaim such action if (1) he determines that the subject fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner; (2) he has obtained advice from the Commission and the appropriate advisory committee; (3) he has submitted a report, within 60 calendar days after the request, to the House Committee on Ways and Means and the Senate Committee on Finance, that sets forth the action proposed, the reasons for such action, and advice obtained; (4) a period of 60 calendar days, beginning with the day on which he has met the requirements of (3), has expired; and (5) he has consulted with such committees on the proposed action during the 60-day period referred to in (3). In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[4] TextileWeb, "Product Showcase - Knitting - Texollini, Inc.," found at *http://www.textileweb.com*, retrieved Jan. 7, 2005.

[5] The yarn count indicates the number of 840 yarn lengths in a pound of yarn. The higher the number, the finer the yarn.

[6] The yarns named in the current petition are identical to the yarns designated by CITA in a previous determination except that the yarns in the current petition contain no cotton fiber and are made in a range of higher yarn counts.

[7] The yarns named in the June 2003 petition filed with CITA on behalf of Ge-Ray Fabrics, Inc., were certain ring-spun single yarn of English yarn counts 30 and 50, containing 50 percent or more, but less than 85 percent, by weight of 0.9 denier or finer micro modal fiber, mixed solely with U.S. origin extra long pima cotton, classified in HTS subheading 5510.30.00. The yarns named in the petition filed by Texollini are classified in HTS subheading 5510.11.00. The key difference between the two yarns is that the yarns named in the Texollini petition do not contain any cotton.

[8] The petitioner supplied two sets of product samples: 1) yarn of yarn counts 30, 40, and 50; and 2) fabrics knitted from yarn of yarn counts 30, 40, and 50.

fibers, containing 85 percent or more by weight of artificial staple fibers, not put up for retail sale.[9] The yarns will be used by the petitioner to knit fabric for use in women's and girls' knitted blouses, shirts, lingerie, and underwear, which are classified in HTS chapter 61 (apparel, knitted or crocheted) and subject to general rates of duty ranging from 6 percent to 32 percent ad valorem.[10]

The petitioner and various industry sources (discussed in the industry section) state that fabrics made of micro modal® yarn have a soft, luxurious hand,[11] and a graceful drape that make them especially suited for lingerie, underwear, and other light knit fabric apparel products. Other key features of fabrics made from the subject yarns include their ability to retain strength when wet, to exhibit little shrinkage, and to remain soft, silky, bright, and colorful after numerous washings. Trade sources report that the subject yarns tend to be in a high price range, averaging roughly $4.00 per pound. The petition states that there currently is no satisfactory substitute for micro modal® fibers in Texollini's intended apparel applications.

Discussion of affected U.S. industries, workers, and consumers[12]

Fiber producers

The only known producer of micro modal® fibers is a European firm, Lenzing AG (Austria), which reportedly sells most of its production to its larger, European market and allocates a smaller amount to buyers in the United States.[13] Commission staff contacted the American Fiber Manufacturers Association and two U.S. fiber producers to confirm the absence of production of micro modal® fibers in the United States. An association official stated that the organization is neutral on the petition because "micro modal® fibers are not produced in the United States."[14] The sole U.S. producer of viscose, Liberty Fibers, confirmed that it does not produce modal fibers, but manufactures rayon primarily for nonwoven[15] applications.[16] Information about Lenzing production capacity for micro modal® fibers is not readily available.[17] An official for Lenzing in the Americas, a subsidiary of the Austrian company, stated that "no one is ring spinning the subject yarn in the United States."[18]

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[9] Data on U.S. imports of the subject yarns are not available because the yarns are grouped with other related artificial staple fiber yarns in HTS subheading 5510.11.00.

[10] Separate data on U.S. imports of apparel made from the subject yarns are not available because, for tariff and statistical reporting purposes, the apparel articles are grouped with other related apparel articles.

[11] "Hand" refers to the tactile qualitites of a fabric, e.g., softness, firmness, elasticity, fineness, resilience, and other qualities perceived by touch.

[12] In general, the manufacturing progress for women's and girls' apparel made from the subject yarn is (1) the micro modal fibers are ring spun into yarns, (2) the yarns are knitted into fabrics, (3) the fabrics are printed, dyed, and cut into components, and (4) the components are sewn into finished garments.

[13] According to Lenzing, the market for micro modal® fibers is much larger in Europe than in the United States; the U.S. market for these fibers was considered limited. See U.S. International Trade Commission, "Apparel of Certain Yarn of Micro Modal Fiber/Cotton," investigation No. 332-450-006, July 17, 2003.

[14] Paul O'Day, President, American Fiber Manufacturers Association, telephone interview with Commission staff, Jan. 12, 2005.

[15] Nonwoven applications refers to an assembly of textile fibers held together by mechanical interlocking in a random web or mat, by fusing of the fibers, or by bonding with a cementing medium such as starch, glue, casein, rubber, latex, etc.

[16] Craig Barker, President, Liberty Fibers, telephone interview with Commission staff, Jan. 13, 2005.

[17] ***, Jan. 12, 2005.

[18] ***, Jan. 12, 2005.

Yarn producers

Commission staff contacted the National Council of Textile Organizations (NCTO),[19] several U.S. yarn spinners identified by industry representatives as possible sources of the subject yarns, the yarn spinners contacted by the petitioner about the subject yarns, and a U.S. yarn spinner that produces open-end spun yarn of micro modal® fiber. Currently, there are no known U.S. firms that produce ring-spun yarn of micro modal® fibers.

Commission staff contacted officials at Carolina Mills, a spinner of a full range of yarns of artificial, synthetic, and cotton fibers. One of the officials stated that although the firm does not manufacture ring-spun yarn of micro modal® fibers, it is currently producing open-end spun yarn of micro modal® fibers for use in apparel fabrics that are being sold to ***.[20] ***. Carolina Mills has the capacity to produce *** and has a *** turnaround time for orders. ***

A representative of *** contends that ring-spun yarn is stronger than open-end spun yarn, but asserted that the washability of fabrics from both yarns is the same. In comparing open-end spun and ring-spun yarns of micro modal® fiber, a representative of *** stated that open-end spun yarns of micro modal® fibers cost 30-35 cents less per pound, have a maximum yarn count of 30, are weaker, raspier, and have a harsher hand.[21]

An official of Buhler Quality Yarns, a U.S. spinner of cotton yarns and an importer of artificial yarns, stated that the company ***.[22] The U.S. Buhler official noted that sourcing the micro modal® fibers is a challenge because Lenzing allocates most of its production of micro modal® fibers to European and Asian customers.[23] He also noted that spinning the subject yarns is difficult, requiring expertise and experience. The U.S. Buhler official stated that the subject yarns are priced at about $4.00 per pound, including freight and duties.[24] ***.[25] ***[26]

Officials of R.L. Stowe Mills, Inc., a domestic producer of ring-spun and other yarns, stated that the firm has the equipment, expertise, willingness, and interest to spin the subject yarn, but cannot because Lenzing allocates most of its production of micro modal® fibers to European and Asian customers.[27] The R.L. Stowe representatives stated that the firm ***.

Commission staff contacted Avondale Mills whose representative stated that ***.[28] ***.

An official of National Spinning Co. stated ***.[29] ***.

An official of Swift Spinning stated that the firm currently produces ***.[30] ***.

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[19] The NCTO represents the entire textile sector - - the fiber, yarn, fabric, and supplier industries. This organization absorbed the American Yarn Spinners Association, the former national trade association representing the sales yarn manufacturing industry.

[20] ***

[21] ***

[22] ***, telephone interview with Commission staff, Jan. 12, 2005.

[23] ***, telephone interview with Commission staff, Jan. 12, 2005.

[24] The price of the yarns fluctuates daily based on the value of the Euro. ***, telephone interview with Commission staff, Jan. 12, 2005.

[25] ***

[26] ***, telephone interview with Commission staff, Jan. 12, 2005.

[27] ***, telephone interview with Commission staff, Jan. 13, 2005.

[28] ***, telephone interview with Commission staff, Jan. 14, 2005.

[29] ***, telephone interview with Commission staff, Jan. 14, 2005.

[30] ***, telephone interview with Commission staff, Jan. 12, 2005.

Texollini indicated that it ***.[31] ***.

Texollini asserts in its petition that other yarns that are supplied by U.S. industry in commercial quantities in a timely manner are not substitutable for the subject yarns. In addition to the qualities previously discussed in the product description section of this report, Texollini states that ring-spun yarns of micro modal® fibers are more versatile than other micro-denier rayon fibers. It furthermore notes that other yarns, such as those made of micro polynosic[32] fibers or lyocell,[33] are inferior because they are subject to fibrillation which occurs when minute elements of a fiber become separated and cause discoloration, especially on creases and folded seams. In addition, Texollini asserts that yarns of these other fibers do not take dyes as readily or evenly as those made of micro modal® fibers. Texollini also expressed its position that ***.[34] ***.[35]

Texollini acknowledged that ***.

Fabric and Apparel Producers[36]

The petitioner was the only U.S. firm identified as producing or planning to produce knitted fabric from the subject yarns for use in certain women's apparel.[37] In its petition, Texollini asserts that it will use the yarn to produce circular-knit fabric in the United States and will perform all dyeing, printing, and finishing of the fabric in the United States. It does not plan to produce knit-to-shape apparel or knit-to-shape components of apparel or produce any fabric outside the United States. A Texollini representative stated that the firm plans to sell fabric of the subject yarn to ***.[38] Texollini's customers will use the fabric to produce women's apparel articles eligible for CBTPA, AGOA, and ATPDEA treatment. A Texollini official said he believes that ***. In its petition, Texollini states that the apparel made from the subject yarn will range from moderately-priced products to better, high-fashion women's wear. Texollini believes that the garments its customers will market will be part of new product lines.

Views of interested parties

NCTO filed a written submission with the Commission and noted that Carolina Mills is the only U.S. yarn spinner with a position on the subject fiber. NCTO also stated that Carolina Mills claims that it has sold open-end micro-modal® yarn of yarn count 30 to Texollini in the past, and that it is willing and able to provide this yarn in the future. NCTO further stated that given the intended use for the subject yarn, it believes that open-end micro-modal® yarn of yarn count 30 is, in fact, a substitutable product for ring spun yarn of the same fiber. The submission also stated that given the lack of availability of micro-modal® fiber, NCTO is not aware of any U.S. companies able to produce the subject yarn of yarn counts 40 and 50.

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[31] ***

[32] Polynosic fiber is a high-wet-modulus rayon staple having a microfibrillar structure of rayon.

[33] Lyocell is a solvent spun cellulosic fiber.

[34] ***

[35] ***

[36] Except for the apparel companies identified by the petitioner in a confidential email, information on apparel producers planning to make garments out of the knit fabric to be produced by Texollini was not readily available.

[37] Commission staff contacted NCTO whose representative stated that it had no knowledge of other knitters that are currently producing or planning to produce knit fabric from the subject yarn.

[38] ***

Probable economic effect advice[39]

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of certain women's and girls' apparel made in eligible CBTPA, ATPDEA, or AGOA beneficiary countries from the subject yarns, regardless of the source of such yarns, would likely have no adverse effect on a U.S. domestic industry or its workers, because there currently is no known domestic production of micro modal® fibers or yarns and knitted fabrics from such fibers. Whereas U.S. yarn spinners appear to have the capability, expertise, and willingness to produce the subject yarns, imminent domestic production of the subject yarns is unlikely because of limited access to micro modal® fibers.

Central to determining the impact that granting the current petition might have on a U.S. domestic industry is the issue of substitutability of open-end spun yarns of micro modal® fibers for ring-spun yarns of same. Although Carolina Mills produces *** of open-end spun yarn per month and states that it believes that open-end micro-modal® yarn of yarn count 30 "is, in fact, a substitutable product for ring spun yarn of the same fiber," information available to Commission staff suggests that open-end yarn spinning and ring spinning are distinctive production processes that differ in terms of cost, time, product features and, often, in product applications. Ring-spun yarns are sold for at least 30-35 cents more per pound, take longer to produce, are stronger, have a softer, smoother hand, and can be spun in much finer grades, thus making them especially suited for higher end lingerie, underwear, and lightweight women's garments. However, even if ring-spun and open-end spun yarns of micro modal® fibers were substitutable, ***. Given the highly limited access that U.S. buyers have to micro modal® fibers, Carolina Mills could have difficulty in increasing its purchases of these fibers to meet Texollini's demand.

The proposed preferential treatment would also likely have no adverse impact on the U.S. apparel industry because imports already supply a significant share of the domestic market for women's and girls' knitted blouses, shirts, lingerie, and underwear. Furthermore, the production of the garments from the subject yarns will likely target a higher-end segment of the U.S. apparel market, and the expected increase in imports of garments made in eligible CBTPA, AGOA, and ATPDEA countries from fabric made from the subject yarns would, at most, possibly displace a small level of other imported garments or simply slightly increase the overall level of U.S. apparel imports. The proposed preferential treatment would also likely benefit U.S. consumers of women's and girls' knitted blouses and shirts, lingerie, and underwear made from the subject yarns to the extent that importers pass on some of the duty savings to retail consumers and also to the extent that they take advantage of a new product line made available to them.

[39] The Commission's advice is based on information currently available to the Commission.

APPENDIX A
REQUEST LETTER FROM THE UNITED STATES TRADE REPRESENTATIVE

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

JAN 27 2004

The Honorable Deanna Tanner Okun
Chairman
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

Dear Chairman Okun:

This letter requests that the U.S. International Trade Commission (Commission) initiate its fourth annual "umbrella" investigation under section 332 of the Tariff Act of 1930 to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed in 2004 with the Committee for the Implementation of Textile Agreements under the "commercial availability" (formerly "short supply") provisions of the African Growth and Opportunity Act, the United States-Caribbean Basin Trade Partnership Act, and/or the Andean Trade Promotion and Drug Eradication Act.

Please consider the terms of this request to be the same as those in my request of December 23, 2002.

I would also like to thank the Commission and its staff for the excellent work and analysis that have gone into the Commission's reports on commercial availability petitions to date. We greatly appreciate the Commission's assistance in this matter.

Sincerely,

Thanks!

Robert B. Zoellick

APPENDIX B
FEDERAL REGISTER NOTICE

working groups may have a late afternoon or an evening meeting on Thursday, February 26, 2004.

An optional field trip is planned for Wednesday, February 25, 2004. The public comment period is scheduled for Wednesday, February 25, from 6–8 p.m. at the Best Western Pecos Inn, 2209 West Main Street. The public may present written comments to the RAC. Depending on the number of individuals wishing to comment and time available, oral comments may be limited.

SUPPLEMENTARY INFORMATION: The 15-member RAC advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in New Mexico. All meetings are open to the public. At this meeting, topics for discussion include:

Rehabilitation of older oil and gas well sites, access issues on Cooke's Peak, oil and gas and cultural management in the Carlsbad Area, the Preferred Upstream Management Practices (PUMP) III Project (a cultural resources Geographic Information System database focused on oil and gas fields), update on noxious weeds program, and proposed RAC initiatives.

FOR FURTHER INFORMATION CONTACT: Theresa Herrera, New Mexico State Office, Office of External Affairs, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502–0115, (505) 438–7517.

Dated: February 3, 2004.

Ron Dunton,

Acting State Director.

[FR Doc. 04–2672 Filed 2–6–04; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1430–BJ] ES–052046, Group 43, Illinois

Notice of Filing of Plat of Survey; Illinois

The Bureau of Land Management (BLM) will officially file the plat of the dependent resurvey of a portion of the subdivisional lines and the survey of a portion of the subdivision of section 17, which define the Great River National Wildlife Refuge acquisition boundary in Township 7 South, Range 5 West, Fourth Principal Meridian, Illinois, accepted on January 29, 2004, in the Eastern States Office, Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

The survey was requested by the U.S. Fish and Wildlife Service.

All inquiries or protests concerning the technical aspects of the survey must be submitted in writing to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to the date of the official filing.

We will place a copy of the plat we described in the open files. Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: January 29, 2004.

Stephen D. Douglas,

Chief Cadastral Surveyor.

[FR Doc. 04–2675 Filed 2–6–04; 8:45 am]

BILLING CODE 4310–GJ–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–458]

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel From Sub-Saharan African, Caribbean Basin, and Andean Countries

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation.

EFFECTIVE DATE: February 2, 2004.

SUMMARY: Following receipt of a request from the United States Trade Representative (USTR) on January 27, 2004, the Commission instituted investigation No. 332–458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries.* The Commission instituted the investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment to apparel made from fabrics or yarns that are the subject of petitions filed in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA). The Commission conducted similar investigations in the years 2001–03 to provide advice with respect to petitions filed in those years.

FOR FURTHER INFORMATION CONTACT: For general information, contact Jackie W. Jones (202–205–3466, *jones@usitc.gov*) of the Office of Industries; for information on legal aspects, contact William Gearhart (202–205–3091, *wgearhart@usitc.gov*) of the Office of the General Counsel. The media should contact Margaret O'Laughlin, Public Affairs Officer (202–205–1819). Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information about the Commission may be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) *http://edis.usitc.gov.*

Background: The Commission will follow procedures similar to those followed in the commercial availability reviews in 2003 under investigation No. 332–450. Thus, in 2004, the Commission will provide advice for each commercial availability review under one investigation number. In addition, the Commission will post a notification letter announcing the initiation of each review on its Internet site (*http://www.usitc.gov*) and send the notification letter to a list of interested parties who wish to be automatically notified via facsimile about any requests for which the Commission initiated analysis. Interested parties may be added to this list by notifying Jackie W. Jones (202–205–3466, *jones@usitc.gov*). The notification letter will specify the article(s) under consideration, the deadline for submission of public comments on the proposed preferential treatment, and the name, telephone number, and Internet e-mail address of a staff contact for additional information. The Commission has a special area on its Internet site (*http://www.usitc.gov/332s/shortsup/shortsupintro.htm*) to provide the public with information on the status of each request for which the Commission initiated analysis. CITA publishes a summary of each request from interested parties in the **Federal Register** and posts them on its Internet site (U.S. Department of Commerce, Office of Textiles and Apparel, at *http://otexa.ita.doc.gov/fr.htm*).

The Commission will submit its reports to the USTR not later than the 42nd day after receiving a request for advice. The Commission will issue a public version of each report as soon as possible thereafter, with any

confidential business information deleted.

Written Submissions: Because of time constraints, the Commission will not hold public hearings in connection with the advice provided under this investigation number. However, interested parties will be invited to submit written statements (a signed original and 3 copies) concerning the matters to be addressed by the Commission in this investigation. The Commission is particularly interested in receiving input from the private sector on the likely effect of any proposed preferential treatment on affected segments of the U.S. textile and apparel industries, their workers, and consumers.

All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8); any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). In the event that confidential treatment of the document is requested, an additional copy must be filed, in which the confidential information must be deleted. Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "nonconfidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties. The Commission may include confidential business information submitted in the course of this investigation in the reports to the USTR. The Commission will also issue a public version of each report. Any confidential business information received by the Commission in this investigation and used in preparing the reports to the USTR will not be published in the public version of the report in a manner that would reveal the operations of the firm supplying the information. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436.

The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's Rules (19 CFR 201.8) (see Handbook for Electronic Filing Procedures, available on the Commission's Internet site at *ftp://ftp.usitc.gov/pub/reports/electronic_filing_handbook.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000 or *edis@usitc.gov*).

List of Subjects

Caribbean, African, Andean, tariffs, imports, yarn, fabric, and apparel.

By order of the Commission.

Issued: February 3, 2004.

Marilyn R. Abbott,

Secretary.

[FR Doc. 04–2687 Filed 2–6–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1043–1045 (Final)]

Polyethylene Retail Carrier Bags From China, Malaysia, and Thailand

AGENCY: International Trade Commission.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigations Nos. 731–TA–1043–1045 (Final) under § 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China, Malaysia, and Thailand of polyethylene retail carrier bags, provided for in subheading 3923.21.00 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: January 26, 2004.

FOR FURTHER INFORMATION CONTACT: Olympia Hand, (202) 205–3182, Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of polyethylene retail carrier bags from China, Malaysia, and Thailand are being sold in the United States at less than fair value within the meaning of § 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on June 20, 2003, by PCL Packaging, Inc., Barrie, Ontario; Sonoco Products Co., Hartsville, SC; Superbag Corp., Houston, TX; Vanguard Plastics, Inc., Farmers Branch, TX; and Interplast Group, Ltd., Livingston, NJ; collectively known as the Polyethylene Retail Carrier Bag Committee.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as "PRCBs, which may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than .035 inch (0.889 mm) and no less than .00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments (e.g., grocery, drug, convenience, department, specialty retail, discount stores, and restaurants) to their customers to package and carry their purchased products. The scope of the investigations excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film; and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments (e.g., garbage bags, lawn bags, trash-can liners)."

APPENDIX C
PETITIONS FOR WHICH THE COMMISSION PROVIDED ADVICE UNDER THE "COMMERCIAL AVAILABILITY" PROVISIONS OF THE AGOA, CBTPA, AND ATPDEA, 2001-2003

Petitions for which the Commission provided advice under the "commercial availability"provisions of the AGOA, CBTPA, and ATPDEA, 2001-2003

No.	Brief product description	CITA received	AGOA	CBTPA	ATPDEA	CITA decision
2003 Petitions, Inv. No. 332-450:						
001	Apparel made with lastol elastic yarn	02/21/03	X	X		Denied
002	Apparel of certain corduroy fabrics	03/17/03			X	Denied
003	Certain apparel of certain cotton velvet fabrics	03/21/03	X			Withdrawn
004	Certain apparel of certain cotton velvet fabrics	04/08/03	X			Denied
005	Men's and boys' shirts of certain fabrics	06/02/03	X			Approved
006	Apparel of micro modal fiber/cotton yarn	06/05/03	X	X	X	Approved
007	Apparel of open-end spun viscose rayon yarns	11/03/03	X	X		Approved
008	Apparel of certain printed, 100-percent rayon	11/13/03		X		Denied
009	Apparel of viscose rayon filament yarn	11/24/03			X	Approved
010	Blouses of certain plain-woven cotton fabrics	12/18/03		X		Approved
011	Blouses of certain plain-woven polyester fabrics	12/18/03		X		Approved
2002 Petitions, Inv. No. 332-436:						
001	Blouses of certain cotton and manmade-fiber	01/04/02		X		Denied
002	Apparel of combed cashmere and camel hair yarn	01/04/02		X		Approved
003	Certain apparel of fine-yarn, high-count woven fabrics	02/28/02	X			Approved
004	Apparel of flannel fabrics	06/11/02		X		Denied[1]
005	Men's suits and suit jackets of certain worsted wool fabrics	07/19/02		X		Denied
006	Apparel made with certain fusible interlinings	12/12/02		X		Approved
007	Blouses of certain shirting fabrics	12/18/02		X		Approved
2001 Petitions, Inv. No. 332-428:						
001	Apparel of cashmere and camel hair yarns	02/28/01		X		Denied
002	Blouses and nightwear of certain fabrics	03/01/01	X			Approved
003	Apparel of crushed panne velour fabrics	03/06/01		X		Approved
004	Knit apparel of viscose rayon yarns	03/12/01		X		Denied
005	Apparel of textured polyester yarns	03/26/01		X		Denied
006	Apparel of certain nonwoven fabrics	05/08/01		X		Denied
007	Apparel of certain polyester-wool yarns	05/11/01	X	X		Denied
008	Apparel of rayon filament yarns	05/23/01	X	X		Approved
009	Knit apparel of open-end spun rayon yarns	06/29/01	X	X		Denied
010	Apparel of cuprammonium rayon filament yarns	11/20/01	X	X		Approved

[1] On April 21, 2003, CITA received a new petition from counsel on behalf of several firms, including the original petitioner, which narrowed the scope of the petition filed in June 2002. As CITA had already sought advice from the Commission in response to the 2002 request, CITA did not do so again. On July 23, 2003, CITA announced that it had determined that certain cotton flannel fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner and, therefore, designated apparel articles, excluding gloves, made in eligible CBTPA countries from the subject fabrics as eligible for duty-free and quota-free treatment under the commercial availability provisions of the CBTPA (see CITA's notice in the *Federal Register* of July 29, 2003 (68 F.R. 44528).